

1 E. MARTIN ESTRADA
2 United States Attorney
3 MACK E. JENKINS
Assistant United States Attorney
Chief, Criminal Division
KRISTIN N. SPENCER (Cal Bar. No. 294692)
4 MELISSA S. RABBANI (Cal. Bar No. 283993)
Assistant United States Attorneys
5 Santa Ana Branch Office
8000 United States Courthouse
411 West Fourth Street
Santa Ana, California 92701
Telephone: (714) 338-3500
Facsimile: (714) 338-3708
E-mail: kristin.spencer@usdoj.gov
melissa.rabbani@usdoj.gov

9
10 Attorneys for Plaintiff
UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 SOUTHERN DIVISION

14 UNITED STATES OF AMERICA,

No. SA CR 23-38-JVS

15 Plaintiff,

DECLARATION OF MELISSA S. RABBANI
IN SUPPORT OF GOVERNMENT'S
OPPOSITION TO MOTION TO EXCLUDE
DEPOSITION TESTIMONY

16 v.

17 JAMAL NATHAN DAWOOD,
aka "Jimmy Dawood,"

18 Defendant.

21 I, Melissa S. Rabbani, declare as follows:

22 1. I am an Assistant United States Attorney in the United
23 States Attorney's Office for the Central District of California and
24 one of the attorneys representing the United States in this matter.
25 I have personal knowledge of the following facts, and if called and
26 sworn as a witness, would completely testify thereto.

27 2. After the court granted the government's application for a
28 deposition of Mr. Battaglia, the parties agreed to schedule Mr.

Battaglia's deposition for September 29, 2023.

3. On or about September 28, 2023, I learned that Mr. Battaglia had been admitted to the Intensive Care Unit and was unable to be interviewed or deposed. I emailed defense counsel that day to reschedule the deposition.

4. The parties ultimately agreed to reschedule the deposition for October 17, 2023. The deposition did go forward that day in Mr. Battaglia's hospital room in Orange, California. Mr. Battaglia received oxygen support throughout the deposition.

5. Attached hereto as **Exhibit A** is a true and correct copy of the transcript of Mr. Battaglia's deposition.

6. The government will lodge as **Exhibit B** a true and correct copy of the video recording of Mr. Battaglia's deposition.

7. On November 3, 2023, FBI Special Agent Julie Sawyer called me to inform me that Mr. Battaglia's family friend had just advised her that Mr. Battaglia had passed away that morning.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on January 16, 2024, at Santa Ana, California.

/s/ Melissa S. Rabbani
MELISSA S. RABBANI
Assistant United States Attorney

Exhibit A

CERTIFIED TRANSCRIPT

U.S.A.

VS.

DAWOOD

THOMAS BATTAGLIA

October 17, 2023



JONNELL AGNEW & ASSOCIATES
(800) 524-DEPO

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 UNITED STATES DISTRICT COURT

2 FOR THE CENTRAL DISTRICT OF CALIFORNIA

3
4 UNITED STATES OF AMERICA,)
5 Plaintiff,) **CERTIFIED
TRANSCRIPT**
6 vs.) No.
7 JAMAL NATHAN DAWOOD,) 8:23-CR-00038-JVS
8 Defendant.) VOLUME I
) Pages 1 - 134
)
9
10
11
12
13
14

15 VIDEOTAPED DEPOSITION OF THOMAS BATTAGLIA,
16 taken on behalf of the Plaintiff, at
17 Providence St. Joseph's Hospital, 1100 West Stewart
18 Drive, Orange, California, commencing at 12:13 P.M.,
19 on Tuesday, October 17, 2023, pursuant to Court
20 Order, before ANDREW T. HA, CSR No. 14537, a
21 Certified Shorthand Reporter, in and for the County
22 of Los Angeles, State of California.

23 ***
24
25

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 APPEARANCES:

2 For the Plaintiff:

3 UNITED STATES ATTORNEY'S OFFICE
4 BY: MELISSA S. RABBANI, ESQ.
KRISTIN N. SPENCER, ESQ.
5 411 West 4th Street
Suite 8000
Santa Ana, California 92701
(714) 338-3500
(714) 338-3561 (Fax)
melissa.rabbani@usdoj.gov
kristin.spencer@usdoj.gov

8 For the Defendant:

9 LAW OFFICES OF VICTOR SHERMAN
10 BY: VICTOR SHERMAN, ESQ.
11 11400 West Olympic Boulevard
Suite 1500
Los Angeles, California 90064
(424) 371-5930
(310) 392-9029 (Fax)
victor@victorsherman.law

14 Also Present:

15 Alan Hernandez, videographer
16 Caroline Agan, FBI agent
Rachel Regnier, paralegal for defense
Jamal Nathan Dawood, defendant

17

18

19

20

21

22

23

24

25

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 I N D E X

3 WITNESS	EXAMINATION	PAGE
4 Thomas Battaglia	By Ms. Rabbani	5, 130
	By Mr. Sherman	50

6
7
8 E X H I B I T S

9 DEFENDANT'S	PAGE
10 Exhibit 1 Apartment Deed (8)	86
11 Exhibit 2 Petition and Order (5)	90
12 Exhibit 3 Residential Purchase Agreement (8)	94
13 Exhibit 4 Disbursement Summary (1)	97
14 Exhibit 5 Amended Declaration of Trust (24)	109
15 Exhibit 6 Declaration of Trust (20)	105
16 Exhibit 7 FBI Interview (3)	118
17 Exhibit 8 Text Messages (1)	127

19
20 QUESTIONS INSTRUCTED NOT TO ANSWER

21 None.

22
23 INFORMATION REQUESTED24 None.
25

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 ORANGE, CALIFORNIA; TUESDAY, OCTOBER 17, 2023

2 12:13 P.M.

3 THE VIDEOGRAPHER: We are on the record.

4 Today's date is October 17, 2023. The time is

5 12:13 A.M.[sic] Pacific Time. My name is PM 12:13:39

6 Alan Hernandez. I am a notary public contracted by
7 Jonnell Agnew & Associates. I'm not financially
8 interested in this action or a relative of any attorneys
9 or any of the parties. This deposition is taking place
10 at Providence Saint Joseph Hospital located at 1100 West PM 12:13:55
11 Stewart Drive, Orange, California 92868.

12 The name of the case is United States of
13 America v. Jamal Nathan Dawood aka Jimmy Dawood, filed
14 in United States court for the central district of
15 California, southern division. The case number is PM 12:14:21
16 8:23-CR-00038-JVS.

17 Will all attorneys present please identify
18 yourselves and state who you are representing for the
19 record, please.

20 MS. RABBANI: Melissa Rabbani with the United PM 12:14:42
21 States attorney's office.

22 MS. SPENCER: And Kristin Spencer with the
23 United States attorney's office.

24 MR. SHERMAN: Victor Sherman representing
25 Mr. Dawood who is present in court. Also with me is my PM 12:14:56

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 paralegal, Rachel Regnier.

2 MS. RABBANI: And also here with the
3 Government is FBI Special Agent Caroline Agan
4 A-G-A-N.

5 THE VIDEOGRAPHER: The court reporter today 12:15:11PM
6 is Andrew T. Ha representing Jonnell Agnew &
7 Associates. Will the reporter please swear in the
8 deponent and we can begin.

9 THOMAS BATTAGLIA,
10 called as a witness by and on
11 behalf of the Plaintiff, being
12 first duly sworn, was examined and
13 testified as follows:

14 EXAMINATION

15 BY MS. RABBANI:

12:15:41PM

16 Q. **Good afternoon, Mr. Battaglia.**

17 A. Good afternoon to you.

18 Q. **How are you doing today?**

19 A. I'm fine. Thank you.

20 Q. **Can you state your name for the record?**

12:15:47PM

21 A. Thomas Michael Battaglia.

22 Q. **And Mr. Battaglia, how old are you today?**

23 A. 82.

24 Q. **82.**

25 **We're in the hospital today; is that right?**

12:15:59PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's correct.

2 Q. And you've been hospitalized for some time
3 now?

4 A. Yes.

5 Q. How long approximately have you been in the
6 hospital? 12:16:04PM

7 A. Little over two months.

8 Q. Okay. Can you just briefly describe what's
9 been going on with your health these last two months?

10 A. Last two months basically had a minor stroke
11 and a heart attack, and these are under control now.
12 Very very minimal restrictions noted. Extremely
13 minimal. 12:16:16PM

14 MR. SHERMAN: I'm sorry. I didn't hear that
15 last bit. 12:16:40PM

16 THE WITNESS: I have very minimal
17 restrictions that were given to me. I have none.
18 Really basic. I do everything, except a little
19 immobile. They're working on that, to get me
20 stronger on the legs. I do have neuropathy, and I am
21 a diabetic. 12:17:01PM

22 BY MS. RABBANI:

23 Q. During this time that you've been in the
24 hospital, have you had any periods where you've been
25 a little confused or a little out of it? 12:17:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Not really.

2 Q. **Not really. And how about today? How are**
3 **you feeling mentally?**

4 A. I'm feeling fine. Thank you.

5 Q. **I'm going to ask you today about your**
6 **relationship with Jimmy Dawood. Do you know**
7 **Jimmy Dawood?**

12:17:23PM

8 A. Yes.

9 MR. SHERMAN: I'd like to interrupt. I'll
10 object for continuing the deposition today at all
11 under Rule 15 because the witness has indicated he's
12 feeling fine, he's not confused. Apparently he has
13 very minimal restrictions according to his own
14 testimony. He can do everything. He's a little bit
15 less mobile than he normally is. He seems in good
16 health other than lying -- laying in his hospital
17 bed, so I don't see any need to even continue the
18 deposition.

12:17:34PM

12:17:48PM

19 THE WITNESS: Could you speak up, please.

20 MR. SHERMAN: I'm sorry.

12:18:02PM

21 THE WITNESS: A little bit.

22 MR. SHERMAN: Yes.

23 THE WITNESS: That'll be great.

24 MR. SHERMAN: Can you hear me now?

25 THE WITNESS: I can hear you better.

12:18:07PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MR. SHERMAN: Too loud for you? Okay.

2 It appears that there's no reason to
3 continue with the deposition because the original
4 allegation was, when the Rule 15 motion was filed,
5 basically that he was on his death bed, and unless we 12:18:20PM
6 took the deposition right away, he might die before
7 trial. It doesn't appear that he's in that medical
8 condition at this point, and whatever problems he had
9 with a stroke and a heart attack have been minimized,
10 mitigated by his hospital stay. So I think that 12:18:38PM
11 whatever may have been the Government's opinion at
12 the time they ruled -- they made the Rule 15
13 motion -- doesn't exist today.

14 And the Government had refused to provide
15 any medical records for the Court to review before 12:18:52PM
16 the Court granted the Rule 15 motion. So I submit
17 that the Government has not fully informed the judge
18 as to what his medical condition was then and
19 certainly not what it is now, so I will object to any
20 Rule 15 deposition at all at this point. 12:19:11PM

21 Apart from that, before we started the
22 deposition today -- and I assume the Government's
23 going to proceed regardless of my objection -- but I
24 want to preserve for the record that we had certain
25 ground rules, and I'm prepared to state what the 12:19:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 ground rules or --

2 MS. RABBANI: I will do that.

3 MR. SHERMAN: Okay.

4 MS. RABBANI: Counsel, your objections are
5 noted. We will go forward. The Court has the full
6 record and we can litigate this later.

12:19:31PM

7 BY MS. RABBANI:

8 Q. As for ground rules, Mr. Battaglia, we
9 talked about this. We have a court order letting us
10 do the deposition today. We are limited to three
11 hours on the record, so I'm going to ask you
12 questions for about 90 minutes, and then
13 Mr. Sherman -- who's here representing
14 Jimmy Dawood -- he's going to ask you questions for
15 the last 90 minutes.

12:19:43PM

12:19:56PM

16 So this is true in every deposition, but
17 it's particularly true for you because we're in the
18 hospital, any time you need a break, you let us know.
19 Whether it's me asking you questions, whether it's
20 Mr. Sherman, and we'll take a break and go off the
21 record and get you whatever you need. Try not to do
22 it if there's a question pending. Try to just answer
23 the question, and then ask for the break. But if you
24 need it, you need it. Does that sound okay?

12:20:08PM

25 THE WITNESS: Sounds fine.

12:20:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Any time you can't understand a question,
2 you can ask for the question to be rephrased. You
3 can say you don't understand. Does that make sense?

4 A. Yes, it does.

5 Q. And if you do answer a question, we're just
6 going to assume you understand the question. Is that
7 fair?

8 A. Correct. That's fair.

9 MR. SHERMAN: I think there was additional
10 ground rules in that the idea was that the Government
11 agrees that, whatever questions asked today, there
12 can be objections to the form of the question to
13 preserve the record for the possibility of litigating
14 that before the judge at a later time, if it gets to
15 that, but Mr. Battaglia will be required to answer
16 the question even if there's an objection.

I also want to put on the record that I understand there's the three-hour time limit that was proposed by the Government to the judge based upon the medical condition of the witness, which seemed very dire at the time they made that request. I appreciate the Government's going to take only an hour and a half today, but I will state that, in preparing for the cross-examination today, there is no way the defendant can successfully cross-examine,

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 through his lawyer, Mr. Battaglia within an hour and
2 a half period, that my cross-examination, based on
3 the voluminous amount of material in this case, will
4 take much longer than an hour and a half, regardless
5 of how long it takes the Government.

12:21:47PM

6 The Government has indicated to me that if I
7 need more time I should make an ex parte motion with
8 the Court and let the Court decide. But it's my
9 understanding that three hours based solely on the
10 medical condition of the defendant and was not
11 intended to restrict the ability of the defendant to
12 properly defend himself.

12:22:01PM

13 THE WITNESS: I'd like to correct your
14 pronunciation of my name. It's Thomas Michael
15 Battaglia, a silent "G."

12:22:16PM

16 MR. SHERMAN: I apologize.

17 THE WITNESS: That's not a problem.

18 MS. RABBANI: Counsel, your objections are
19 noted. I understand that you're objecting to the
20 fact that we're doing the deposition today. You're
21 objecting to the time limit. We will respond to
22 those separately.

12:22:25PM

23 Going forward, can we just stipulate no
24 speaking objections. We'll do quick objections to
25 form.

12:22:35PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MR. SHERMAN: Don't you believe that I
2 should have put my objection in the --

3 MS. RABBANI: I do.

4 MR. SHERMAN: Well, I don't think they were
5 speaking objections.

12:22:41PM

6 MS. RABBANI: Going forward.

7 MR. SHERMAN: They explain the situation. I
8 will certainly try to limit my objections as much as
9 possible.

12:22:50PM

10 MS. RABBANI: Okay. Much appreciated.

11 BY MS. RABBANI:

12 **Q. Okay. Mr. Battaglia, I'm going to -- as I
13 was saying, I'm going to ask you questions today
14 about your relationship with Jimmy Dawood.**

12:22:57PM

15 A. Yes.

16 **Q. Do you know Jimmy Dawood?**

17 A. Yes.

18 **Q. And do you see him here today in the room
19 with us?**

12:23:03PM

20 A. Hard to see him at all.

21 **Q. But you recognize him here?**

22 A. I recognize him here.

23 **Q. Okay. And do you have any trouble
24 remembering your relationship with Jimmy Dawood?**

12:23:17PM

25 A. Not at all. Absolutely not.

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q.** Okay. Did you have a brother named
2 **Jack Battaglia?**

3 **A.** Yes, I did.

4 **Q.** Can you describe your relationship with
5 **Jack?**

12:23:26PM

6 **A.** Very close. Wonderful brother. He spoke
7 seven languages fluently. He was also a concert
8 pianist. A bit of a intellectual wiz, extremely
9 intelligent. And we were very very close. As
10 brothers. Only brothers that we had in the family.
11 Just he and I.

12:23:46PM

12 **Q.** And did Jack pass away a few years ago?

13 **A.** Yes.

14 **Q.** And when was that? Do you remember?

15 **A.** It was July the 13th of 2019.

12:23:57PM

16 **Q.** And when Jack died, did he leave you
17 anything in his estate?

18 **A.** He left me virtually everything.

19 **Q.** And can you -- was there money? Like, just
20 cash in an account?

12:24:12PM

21 **A.** There was cash that I knew of.

22 **Q.** And how much money was that?

23 **A.** Well, approximately -- it was actually one
24 million and five dollars. From Cetera. That was the
25 Putnam fund. And Los Angeles.

12:24:31PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q. And did he leave you any properties?**

2 A. Yes. His home, 2416 Calle Aquamarina, in
3 San Clemente. And two properties in Honolulu,
4 Hawaii, at the Luana and is known as 2416. Kalakaua.
5 Kalakaua Avenue in Honolulu. And the units in
6 question were unit 906 and unit 1103.

12:25:09PM

7 **Q. And were those Hawaii properties, were those**
8 **condominiums?**

9 A. They were called condominium suites. They
10 were suites, not condominiums.

12:25:29PM

11 **Q. Okay. And were those bringing in rental**
12 **income?**

13 A. Absolutely. A significant number of dollars
14 coming in every month because they were totally
15 rented all the time.

12:25:42PM

16 **Q. The house that you mentioned on Aquamarina,**
17 **is that where your brother lived?**

18 A. That's correct. That was his home.
19 Principle home.

12:25:52PM

20 **Q. And after your brother died and you**
21 **inherited this money and these properties what did**
22 **you want to do with the estate?**

23 A. Basically to promote goodwill, to donate
24 certain amounts to friends and relatives and
25 charitable funds as well.

12:26:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MR. SHERMAN: I'm sorry. I didn't hear
2 that.

3 THE WITNESS: Friends and relatives and
4 charitable funds.

5 MS. RABBANI: Charitable funds. 12:26:26PM

6 THE WITNESS: Charitable. Sorry about that.

7 MR. SHERMAN: I'm sorry.

8 BY MS. RABBANI:

9 **Q. Did you want to sell the Aquamarina house?**

10 A. Yes. 12:26:37PM

11 **Q. And did you want to keep renting out the two**
12 **properties in Hawaii?**

13 A. Absolutely.

14 **Q. How did you meet Jimmy Dawood?**

15 A. Well, I was referred to Jim Dawood from a
16 friend of a friend of my brother's actually. And he
17 referred him as an individual who could help me sell
18 the property, repair it, fix it up, and do whatever's
19 necessary for the sale of the property. 12:26:47PM

20 And basically I didn't investigate his
21 background or anything. But I took it as fair value.
22 It was an honest representation straightforward to me
23 by a friend of a friend of my brother's. Normally
24 with my background in human resources of
25 approximately 50 years I would check anyone referred 12:27:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 to me, but I didn't because it came through this
2 distant friend. So that being the case, he was
3 introduced to me, and basically he said I can help
4 you because --

5 MR. SHERMAN: This point I would object as a 12:28:06PM
6 narrative, and I would ask the Government ask the
7 next question --

8 MS. RABBANI: I'll ask another question.

9 MR. SHERMAN: -- rather than just continue 12:28:18PM
10 with the narrative.

11 BY MS. RABBANI:

12 Q. When you say you wanted to get help
13 repairing and fixing up and selling the property, you
14 mean the Aquamarina house; is that correct?

15 A. That's correct. His domicile. 12:28:27PM

16 Q. And when you met Jimmy Dawood, was this
17 shortly after your brother died?

18 A. Yes.

19 Q. So it was in that summer of 2019?

20 A. Yes. Within weeks. And also I was in the 12:28:38PM
21 hospital with the small operation of a stent being
22 put in my body. A stent. You know what a stent is?

23 Q. In the heart?

24 A. It was by the heart.

25 Q. Okay.

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Yeah. So I had that done. And then
2 subsequently he passed away on the 13th of the year
3 2019.

4 MR. SHERMAN: Excuse me. I misunderstood.
5 Did you say you had the stent or your brother had the 12:29:16PM
6 stent?

7 THE WITNESS: I had the stent.

8 MR. SHERMAN: I'm sorry. Okay. Thank you.
9 BY MS. RABBANI:

10 **Q. And how did Jimmy Dawood introduce himself** 12:29:22PM
11 **to you?**

12 A. As someone who could, quote, unquote, help
13 restore my brother's property to full salable
14 condition. And --

15 **Q. Go ahead.**

16 A. -- and that the proceeds would be given to
17 me upon the sale of said property.

18 **Q. Did you agree that he would take any kind of** 12:29:40PM
19 **fee?**

20 A. No. We didn't agree on any fee. 12:29:57PM

21 **Q. Okay. Did you discuss whether he'd be paid**
22 **some portion of the proceeds of the sale?**

23 A. No.

24 **Q. Did you talk about any payment for**
25 **Mr. Dawood at all?**

12:30:10PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I don't recall that.

2 Q. Okay. So did you agree that he would help
3 you manage that Aquamarina property?

4 A. Manage in what sense?

5 Q. Get it ready for sale and then sell it. 12:30:24PM

6 A. If that's the indication you have, that
7 would be correct.

8 Q. Did he tell you that he would take care of
9 the mortgage payments for the Aquamarina house?

10 A. Absolutely yes. 12:30:36PM

11 Q. And did he tell you he would take care of
12 the homeowner's association fees?

13 A. Yes. And taxes.

14 Q. Okay. And taxes.

15 A. And any income rentses that occurred. 12:30:47PM

16 Q. And he told you he'd paid any other bills
17 with the Aquamarina house?

18 A. Yes. We discussed that at length and he
19 indicated that he would pay and he would have his
20 wife pay these subsequent fees that were due on said
21 property. 12:31:02PM

22 Q. Did you and Mr. Dawood ever put this
23 agreement you had between you in writing?

24 A. I asked for it. I never got it.

25 Q. You asked him to put it in writing? 12:31:19PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Several times.

2 Q. **What he was going to do for you?**

3 A. And I never had any contract, never any
4 inkling of his involvement in selling the property,
5 repairing the property, doing anything to enhance the
6 sale of my brother's home.

12:31:36PM

7 Q. **So at the outset, your understanding was**
8 **that he was going to make repairs to the Aquamarina**
9 **house, get it ready for sale, and sell it. Is that**
10 **fair?**

12:31:51PM

11 A. That is correct.

12 Q. **And did you have any discussions with him**
13 **about the cash that you had?**

14 A. No.

15 Q. **Did you have any discussions with him about**
16 **the Hawaii properties?**

12:31:57PM

17 A. Yes.

18 Q. **And what was that?**

19 A. That was basically he was going to deposit
20 said properties -- the two properties 906 and 1103 --
21 into his funds. One was I remember the name
22 "Global." It was "Global." And if I heard the
23 second name, I would affirm it of the other property
24 be put into another fund that he owned.

12:32:06PM

25 Q. **When you say, "Global," does**

12:32:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Global Design Build sound familiar?**

2 A. That probably sounds familiar.

3 **Q. And for the --**

4 A. I can't establish that as being the actual
5 fact, but it sounds correct.

12:32:43PM

6 **Q. You just remember that "Globe" was in the
7 name?**

8 A. "Global."

9 **Q. "Global." How about Medline Management?**

10 **Does that sound familiar?**

12:32:51PM

11 A. That may have been expressed maybe once or
12 twice.

13 **Q. TD Capital?**

14 MR. SHERMAN: Well, I would object that the
15 Government is leading the witness. So I object to
16 the form of the question.

12:33:04PM

17 MS. RABBANI: It's like a two-word question.

18 BY MS. RABBANI:

19 **Q. Does TD Capital sound familiar?**

20 A. Sounds a little familiar.

12:33:13PM

21 **Q. Okay. And when you say he's going to
22 deposit the Hawaii properties, do you mean he was
23 going to take the rental income from the Hawaii
24 properties and put them into his own accounts?**

25 A. No. He never said that. He never said

12:33:27PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 that.

2 **Q. Did he say he was going to transfer**
3 **ownership of the Hawaii properties to his own**
4 **companies?**

5 A. He said that -- that's a little fuzzy. A 12:33:37PM
6 little fuzzy. Hard to recall that specific.

7 **Q. Okay.**

8 A. Restate that question.

9 **Q. Did he tell you that he was going to**
10 **transfer the ownership of those Hawaii properties to**
11 **some other entity?**

12 A. Temporarily.

13 **Q. Okay.**

14 A. That's right. He said temporarily. So that 12:33:56PM
15 he could put me in the best position regarding the
16 disposition of those properties going forward.

17 **Q. So he told you that he was going to transfer**
18 **ownership of the two Hawaii properties to some other**
19 **entity to benefit you; is that right?**

20 A. Yes. And that, basically, all of that would 12:34:08PM
21 be returned to me for my total disposition at
22 approximately 30 days, is what I recall.

23 **Q. So was it your understanding that after some**
24 **period, maybe 30 days ownership of the Hawaii**
25 **properties, would be transferred back to you?**

12:34:28PM

12:34:51PM

12:34:51PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's correct.

2 Q. How about that Aquamarina house? Did he
3 ever tell you to transfer ownership of that
4 Aquamarina house?

5 A. Never. 12:35:01PM

6 Q. Never?

7 A. No never.

8 Q. Okay. For the Hawaii properties, did he
9 have you sign anything transferring the ownership?

10 A. Never. 12:35:08PM

11 Q. I want to go back to the retirement savings,
12 which I think you said was about a million?

13 A. Well, let me expand on that. That was from
14 one fund that my brother owned. And that was through
15 Putnam fund in Los Angeles. It's the fund known as
16 Cetera C-E-T-E-R-A. Cetera fund. And at that time
17 it was held Nahigian, who was the principle of that
18 fund. He subsequently has passed away and his son
19 has taken over. Steven Nahigian. 12:35:29PM

20 Q. Okay. 12:35:54PM

21 A. Okay? And my brother and I have known the
22 Nahigians for many many years. And he's the one that
23 transferred one million and five dollars into the --
24 believe it was the Bank of America account.

25 Q. Okay. 12:36:15PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Then also Pierre Ngo N-G-O was
2 Financial Strategies, was another entity that my
3 brother had a subsequent amount of almost three
4 quarters of a million dollars into also, and they
5 sold those funds per his instructions back to
6 Bank of America.

12:36:39PM

7 **Q. Okay.**

8 A. And Caltech Federal Credit Union did also.
9 We were members of Caltech. Caltech Federal Credit
10 Union.

12:37:06PM

11 **Q. So when we're talking about the cash that**
12 **was in Jack's estate, it's somewhere around 1.2, 1.3**
13 **million?**

14 A. Much more than that. Much much more.

15 **Q. Did you have a sense of how much?**

16 A. Well, it was 75,000 that he asked me to
17 transfer from Union Bank. He asked for the
18 property's contents to be given to a fellow by the
19 name of Roger Bark -- "Bark-say-jyan," I believe, is
20 how you pronounce it. "Barksedarian" or
21 "Bark-say-jyan." So he came in with a couple of
22 trucks and virtually emptied out the contents of the
23 house, the office, the -- everything in the kitchen,
24 the etageres, all of the furniture, and cash money as
25 well.

12:37:47PM

12:38:20PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. When you're talking about things being
2 removed from the house, is that Jack's Aquamarina
3 house?

4 A. That's correct.

5 Q. And who removed all the stuff from the -- 12:38:26PM
6 inside the house?

7 A. His name is Roger Bardakjian or some call it
8 "Barksedarian." But I call it "Bark-say-jyan."
9 Roger Bardakjian.

10 Q. And did you ask him to do that? 12:38:41PM

11 A. Absolutely not. Never.

12 Q. Do you know who had him -- did you have any
13 understanding --

14 A. I had assumed it was Jim Dawood.

15 Q. Did you ever see any proceeds from the 12:38:52PM
16 things that were taken?

17 A. Absolutely nothing. Zero.

18 MR. SHERMAN: By the way, just for the
19 record, I assume obviously I'll object on hearsay
20 grounds. We're preserving those objections. But 12:39:02PM
21 this is the first time I want to make that objection
22 so in the future I won't have to interrupt. And
23 anything based upon hearsay may be agreed that I do
24 not have to object at that moment on the grounds of
25 hearsay, but I'm preserving that --

12:39:17PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 MS. RABBANI: Yes.

2 MR. SHERMAN: Thank you.

3 BY MS. RABBANI:

4 Q. Do you remember when the things were taken
5 out of the house? 12:39:23PM

6 A. Well, it was subsequent dates.

7 Q. Okay.

8 A. Week after week after week after week.

9 Q. Did it start after you met Mr. Dawood?

10 A. Oh yes. 12:39:31PM

11 Q. And did Mr. Dawood have access to that
12 house?

13 A. Yes.

14 (Whereupon there was a brief
15 cellphone interruption in the
16 proceedings.) 12:39:35PM

17 MR. SHERMAN: Excuse me. If you need to
18 answer it, we can go off the record.

19 MS. RABBANI: I think it's gone.

20 MR. SHERMAN: I have the same problem. 12:40:05PM

21 THE WITNESS: Now it's off. Sorry about
22 that.

23 BY MS. RABBANI:

24 Q. All right. Going back to the cash, did
25 Jimmy Dawood tell you that you should put that money 12:40:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **in a trust account?**

2 A. Not specifically a trust account, but a
3 special fund or funds, plural, depending upon
4 whichever properties were involved. They would be
5 put into a special holding account to be held in
6 trust for me, and at some future date all of this
7 would be come back -- would come back to me.

12:40:35PM

8 **Q. Did he go with you to open a bank account?**

9 A. Yes.

10 **Q. And where did you go?**

12:40:55PM

11 A. In San Clemente, the Pico branch of
12 Bank of America.

13 **Q. And you two went together to a**
14 **Bank of America branch?**

15 A. Uh-huh. That's correct.

12:41:09PM

16 **Q. And you opened an account?**

17 A. Yes.

18 **Q. Okay.**

19 A. He was sitting right next to me, and I
20 claimed, "Am I the only recipient of basically
21 accessing this money?" And he said absolutely. He
22 said I can't touch a penny of it.

12:41:17PM

23 **Q. And how much money went in --**

24 A. That was not true.

25 **Q. How much money went into that account? Just**

12:41:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 roughly. Do you remember? Was it over a million?

2 A. Much more.

3 Q. Okay.

4 A. Because it came in from three funds.

5 Q. And did you start transferring the rental
6 income from Honolulu into that account?

7 A. No. Because he alleged that he had control
8 of the property's evaluation going into his holding
9 companies, Global and those other two that you
10 mentioned.

12:41:45PM

12:42:09PM

11 Q. Did Mr. Dawood tell you that you would need
12 to put extra money into that account to cover some of
13 the repairs?

14 A. No. Never.

15 Q. Okay. When you were there at the
16 Bank of America branch, did the bank give you
17 information on how to access the account?

18 A. General information that it was going to be
19 held in trust for me, and basically I understood it
20 as specifically for me and no one else.

12:42:18PM

12:42:45PM

21 Q. Did you ever learn how to log onto the bank
22 account online?

23 A. No.

24 Q. On your phone or computer?

25 A. No, I did not.

12:42:57PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q. Did Mr. Dawood know how to do that?**

2 A. Yes. And I asked him several times to
3 assist me with that, and that never got -- that never
4 happened. Never at all.

5 **Q. Were you the only authorized signer on that** 12:43:11PM
6 **account?**

7 A. According to the banker, I was.

8 **Q. Okay.**

9 A. His name was Kim. I don't know if he's
10 still there at that branch. I don't know. 12:43:24PM

11 May I have a sip of water. Small cup.
12 Good. Excellent.

13 **Q. Do you want to take a break, Tom, or do you**
14 **want to keep going?**

15 A. Thank you. Proceed. 12:43:43PM

16 **Q. So I think I asked this, but I just want to**
17 **make sure: Did you at any time, back in 2019 or**
18 **couple of years later, did you ever access that bank**
19 **account online?**

20 A. No, I never did. 12:44:07PM

21 **Q. Okay.**

22 A. I didn't know how to. Honestly, I will
23 admit that I'm not that computer savvy with these --
24 with these instruments, these phones and computers.
25 They keep changing and I keep trying to understand 12:44:21PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 them.

2 Q. **They do.**

3 A. Difficult.

4 Q. **So after the account was set up, did**
5 **Mr. Dawood start to take money out of the account?**

12:44:31PM

6 A. I don't know.

7 Q. **You don't know?**

8 A. I don't know.

9 Q. **Did he --**

10 A. He alleged that he couldn't.

12:44:38PM

11 Q. **Uh-huh.**

12 A. But then subsequently I found that he could
13 and did from the bankers of Bank of America.

14 Q. **Did he tell you that he was spending money**
15 **making improvements on Aquamarina house?**

12:44:54PM

16 A. Some.

17 Q. **Did he tell you specifically what he was**
18 **doing?**

19 A. That he was going to take funds to repair
20 the property, and he did say that it was going to be
21 in excess of a million dollars. I subsequently have
22 an individual who builds homes who said, "Nonsense."
23 He went in there and looked at the alleged repairs
24 and said, "Absolutely nonsense. This is a huge huge
25 overexaggeration of what was going on in that

12:45:09PM

12:45:33PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 property, the repairs that were being made."

2 Q. Did Mr. Dawood ever show you receipts or
3 photos of any --

4 A. Never. I asked him. Never. Nothing with
5 his handwriting on it. No -- nothing in writing. No 12:45:49PM
6 memo. No nothing. And I asked for it repeatedly, ad
7 nauseam, over and over and over again. "Oh, I'll get
8 it to you." "Oh, we'll mail it to you." "Oh, my
9 computer's down." "Oh, my copier is down." "Oh I
10 forgot it." "Oh, I'll get it to you." Never 12:46:09PM
11 happened. That was very frustrating. And it was
12 kind of the turning point of my belief in his
13 testimony to me.

14 Q. Did Mr. Dawood ever tell you that he was
15 taking money out of that account to invest in other
16 projects? 12:46:27PM

17 A. Never.

18 Q. And did you ever tell Mr. Dawood that you
19 wanted to invest some of that money?

20 A. Never. 12:46:38PM

21 Q. Did you want to invest that money?

22 A. Never.

23 Q. Did Mr. Dawood ever have you sign checks
24 that you remember?

25 A. He had me sign some documents, but the -- 12:46:49PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the contents of the documents, what they were for,
2 were always obliterated, and it was just, "Sign here.
3 This is here to protect you." He would say over and
4 over again. "What am I signing this for?" "To
5 protect you. To save the funds in this account to
6 protect you, Tom. You must sign this." So I did.

12:47:07PM

7 **Q. Do you remember how many times that**
8 **happened, that he had you sign documents?**

9 A. Under 12.

10 **Q. And were some of those --**

12:47:27PM

11 A. Maybe 12-13 times.

12 **Q. -- were some of those contracts?**

13 A. They were alleged to be. Just basic
14 information that he needed to coordinate things on my
15 behalf, to protect me again. That was always the
16 center of the objections from him. "I'm here to
17 protect you." "I'm here to invest this." "Please
18 sign here. This is what you need to do." So I never
19 questioned any of this. I assumed that everything
20 was according to hoil (phonetic), according to the
21 correct modality of handling business. I don't know.

12:47:45PM

22 **Q. Do you remember the bank ever calling you to**
23 **authorize a wire transfer out of that account?**

24 A. They did call me.

12:48:12PM

25 **Q. And what happened?**

12:48:30PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Lady called me and she said, "Do you realize
2 that money's being taken from your account? We think
3 it's fraud." She quoted me. I said, "You do?" She
4 said, "Yes, we do. Are you taking money?" I said,
5 "No, I'm not. I haven't taken a penny of any of it."
6 She said, "Well, there's a substantial amount. We
7 will prove it to you."

12:48:50PM

8 And she sent a representative who came to my
9 home, knocked on my door, came into my house, invited
10 her in, and told me that a significant amount --
11 several times -- of money, huge amounts of money --
12 were taken from the account. And then, "We're down
13 to this. We're down to this. Down to this." I
14 said, "Oh, my God." I said, "I had no idea."

12:49:05PM

15 **Q. You were surprised?**

12:49:28PM

16 A. Shocked.

17 **Q. Do you remember when this happened? Would**
18 **it have been at the end of your relationship with**
19 **Mr. Dawood?**

20 A. Toward the end.

12:49:38PM

21 **Q. Okay. Before this call and the fraud**
22 **examination, do you remember whether the bank ever**
23 **called you and said, "Can you sign off on this wire**
24 **transfer?"**

25 A. No.

12:49:49PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. You don't remember that?

2 A. No. I don't remember any bank calling me
3 about anything subsequent to that.

4 Q. I asked before about TD Capital. Did you
5 ever agree to invest in TD Capital, that you
6 remember?

12:50:03PM

7 A. No.

8 Q. Did you ever agree to invest money with
9 TD Capital?

12:50:11PM

10 A. No.

11 Q. Sitting here today, do you have any
12 understanding of what TD Capital is?

13 A. TD Capital, according to Jim Dawood, was one
14 of his entities that he had used many times. He
15 actually showed me his cellphone and he said, "See
16 these?" Took his cellphone and he scrolled through.
17 I said, "Well, how many accounts are there?" He
18 said, "About a hundred." I said, "A hundred?" He
19 said, "Yeah. I've helped a hundred people with their
20 estates." I said, "Oh, really?" And then he went to
21 another screen, and he pulled it up and he said,
22 "This is -- this is the sum total of my assets:
23 548 million, with an 'M.' \$548 million."

12:50:29PM

12:50:47PM

24 Q. He told you he had \$548 million personally?

25 A. That was the exact amount, and he always

12:51:10PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 drove up in a Rolls-Royce or a Bentley, Mercedes, or
2 a Land Rover. Fact, I have a picture in the phone of
3 seven cars that he presumed to own that were from his
4 stable of vehicles.

5 **Q. Did you go to his house? Is that where you** 12:51:33PM
6 **saw them?**

7 A. I never been to his house.

8 Q. Okay. Where did you see the picture of the
9 seven cars?

10 A. He handed me his phone.

11 Q. I see.

12 A. It was just on the phone. But I understand
13 he lives in Burbank, California.

14 Q. How about Globe Design Build? Sitting here
15 today, do you know what that company is? 12:51:53PM

16 A. Just what he mentioned it was. And it was a
17 investment company that he owned.

18 Q. And did you ever agree to transfer money
19 into Globe Design Build?

20 A. No, I never did.

21 Q. Did you ever agree to invest in
22 Globe Design Build?

23 A. No. None of them. None of the alleged
24 investments were mentioned that you mentioned, the
25 other two, never never never. Plus Global. Never. 12:52:20PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Have you ever heard of the
2 Elliott Institute?

3 A. No.

4 Q. And did you ever agree to invest money into
5 the Elliott Institute? 12:52:33PM

6 A. I have never heard that name --

7 Q. Okay.

8 A. -- before.

9 Q. Are you familiar with Colony Capital?

10 A. No, I am not. 12:52:41PM

11 Q. Did you ever agree to invest money into
12 Colony Capital?

13 A. Like I said, I have never heard that name.

14 Q. How about Medline Management Corporation?

15 A. What was that? 12:52:55PM

16 Q. Medline M-E-D-L-I-N-E?

17 A. I think I've heard that name once. But no
18 regard as to what it was other than one of his owned
19 entities that he had invested in and owned.

20 Q. And did you ever authorize Mr. Dawood to
21 transfer money into Medline? 12:53:11PM

22 A. No. None. Never.

23 Q. Did you and Mr. Dawood ever talk about the
24 idea of doing any investments with that money?

25 A. No. No. 12:53:25PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q. Do you know who a Christine --**

2 A. Donations. Donations, but not investments.

3 **Q. Charitable donations?**

4 A. Yeah. One was an alleged church religious
5 fund that I believe was in Anaheim. And he said we
6 can name this the Jack J. Battaglia Charitable Fund.
7 I said, "You can?" I said that would be great, and I
8 kind of choked up on that one. That was a unique
9 approach.

12:53:38PM

10 **Q. Did that ever happen to your knowledge?**

12:54:01PM

11 A. To the best of my knowledge, that was the
12 end of the conversation.

13 **Q. Okay. Do you know Christine Armani**
14 **A-R-M-A-N-I?**

15 A. I met her once.

12:54:12PM

16 **Q. Who is she?**

17 A. His -- Jim Dawood's wife. She came to my
18 home.

19 **Q. And why did she come to your home?**

12:54:23PM

20 A. He brought her in, showed her around my home
21 and yard. They ran in the backyard and kind of
22 looked around. And that was it.

23 **Q. Did you ever agree to transfer money to her?**

24 A. No. Never.

25 **Q. Did -- these questions are going to feel**

12:54:40PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 repetitive. Did you ever agree to invest in the
2 purchase of any property in La Crescenta?

3 A. No.

4 Q. Did you ever agree to invest in the purchase
5 of any property in Brea? 12:54:52PM

6 A. Never.

7 Q. Did you ever agree to invest in the purchase
8 of a property in Fontana?

9 A. No.

10 Q. Did you ever discuss with Mr. Dawood
11 investing any of your money in any property anywhere? 12:55:02PM

12 A. I subsequently found out that my home was
13 placed in his control. And I was shocked. And I did
14 call and I had a conversation with him. And I said
15 what are you doing with my residence, my home, and
16 your portfolio of assets. And he said, "That's for
17 your protection." Everything was always for my
18 protection. He was here to help me. He was going
19 forward to do the right things for me. 12:55:27PM

20 Q. Did you ever -- 12:55:47PM

21 A. Never came to any material gain for me ever.
22 Never.

23 Q. Did you ever discuss with him investing in
24 any other properties?

25 A. No. 12:55:58PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Okay. Do you know what Rodeo Smoke Shop is?

2 A. I have no idea.

3 Q. Okay. And did you ever agree that any of
4 the money in that account could be used to pay off
5 Mr. Dawood's personal credit card?

12:56:11PM

6 A. Smoke shop?

7 Q. Smoke shop was the last question.

8 A. Is that what you were referring to? And
9 you're referring to what now?

10 Q. So you don't know what Rodeo Smoke Shop is?

12:56:22PM

11 A. No, I do not.

12 Q. Separately, did you ever agree that the
13 money in that trust account could be used to pay off
14 Mr. Dawood's personal credit card?

15 A. No.

12:56:34PM

16 Q. Is it your understanding that the --

17 A. Can I have another sip -- sip of water.

18 Q. Do you want to take a break, Tom?

19 A. No. Unless you do.

20 Q. No. No. I'm good.

12:57:06PM

21 MR. SHERMAN: Just for a moment. What's
22 your birth date.

23 THE WITNESS: 9-29-41 September. I just had
24 my birthday from 81 to 82.

25 MR. SHERMAN: So I'm -- you're just now 82.

12:57:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 THE WITNESS: Brand-new 82. September.
2 September 29, 1941, was my date of birth.

3 MR. SHERMAN: I'm a month older than you.

4 THE WITNESS: Well, congratulations. You
5 don't look it. Look at all that hair. You look
6 good.

12:57:38PM

7 MR. SHERMAN: Thank you.

8 THE WITNESS: Yeah. You're not overweight.
9 You look great.

MS. RABBANI: You look good, too, Tom.

12:57:46PM

THE WITNESS: Okay. Thank you.

2 | BY MS. RABBANI:

Q. So is it your understanding that the Aquamarina property ultimately was sold to some third party?

12:57:58PM

A. Yes. It was sold through my friend,
Frank Martinez, brokerage firm. And Jimmy objected
to that. He said, "You don't have to have another
real estate or brokerage firm. My wife has a real
estate brokerage firm. We can sell it through that."
And I said, "No. I don't want it that way. I want
it to go through Frank Martinez who's been a friend
of our friends' families that my brother had sold
property through and bought property through several
times prior to that.

12:58:14PM

12:58:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q.** After that property was sold, did you
2 ever --

3 **A.** Excuse me. Prior to this.

4 **Q.** Okay.

5 **A.** Prior to this.

12:58:39PM

6 **Q.** Prior to this.

7 **A.** Yeah.

8 **Q.** Okay. After that property was sold, did you
9 ever get any proceeds from the sale of the property?

10 **A.** Absolutely none. Not a penny.

12:58:50PM

11 **Q.** Did it go into that Bank of America trust
12 account?

13 **A.** I honestly don't know where it went, but I
14 asked him about it. I asked Jim about it, and he
15 said, "Oh we'll get that to you." Never happened.
16 It never happened. Not a penny. And it was a
17 substantial amount.

12:59:03PM

18 **Q.** Did you ever get the Hawaii properties
19 transferred back to you?

20 **A.** Never. No.

12:59:16PM

21 **Q.** And so as far as you understand you have no
22 ownership interest in those Hawaii properties right
23 now?

24 **A.** No ownership in the money, in the
25 properties, in these home, any other assets -- gone,

12:59:29PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 as if they've vanished in air and just totally gone.
2 I have no idea.

3 Upon asking him to let me know what -- where
4 the funds are and all, he said, "Oh it'll be come to
5 you. It's in route. It's in route." Not a penny of
6 it ever was or ever has been given back of my
7 brother's estate, my brother who worked all of his
8 life very very hard, for every penny he earned.

9 Like I say, he spoke seven languages
10 fluently. He's a concert pianist. He's a brilliant
11 guy, but he made some good sound investments and
12 properties that got him to where he was, to be able
13 to gain these other properties that I mentioned in
14 Hawaii and to gain the funding where he was when he
15 passed away.

16 **Q. Have you ever -- do you know what a remotely
17 created check is?**

18 A. A what?

19 **Q. A remotely created check? Sometimes it's
20 called an RCC.**

21 A. I've never heard of that.

22 **Q. Did you ever authorize an automatic check to
23 be sent out of that trust account every month?**

24 A. I don't know to which you're referring to.

25 **Q. So I'm trying to think of the best way to**

12:59:58PM

01:00:20PM

01:00:45PM

01:00:59PM

01:01:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 explain this. Did you ever agree that the trust
2 account would send an automatic check every month to
3 Medline Management?

4 A. No, I never agreed to it.

5 Q. Were you aware that the trust account was
6 sending automatic checks every month to MMC? 01:01:29PM

7 A. No. No. His personal transactions were
8 kept solely to his knowledge, not mine. You know, I
9 vaguely heard of the name of these entities and, like
10 I say, I can't account for a penny of their
11 acquisition, disposal, any movement of them or
12 anything because it was just a vague referral to what
13 they were. 01:01:50PM

14 Q. Did you ever agree to pay rent for the
15 Aquamarina property? 01:02:12PM

16 A. No. Oh no.

17 Q. Okay. Do you know the name Walter Lima
18 L-I-M-A? 01:02:30PM

19 A. No, I do not.

20 Q. Did you ever agree to lend money to
21 Walter Lima? 01:02:30PM

22 A. I don't know that name.

23 Q. Okay. How about Fares F-A-R-E-S Abbasi
24 A-B-B-A-S-I? 01:02:42PM

25 A. I don't know that name either.

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did you ever agree to lend money to
2 Fares Abbasi?

3 A. I never heard those names.

4 Q. You mentioned before that at some point
5 Bank of America started a fraud investigation. When
6 that started, do you remember about how much money
7 was left in the trust account? 01:03:08PM

8 A. It was a sizable amount, and I want to say
9 in excess of a million.

10 Q. Do you remember? 01:03:24PM

11 A. Probably a million and half.

12 Q. That's how much it started with?

13 A. That's what it started with.

14 Q. Do you remember how much was left when
15 Bank of America started that fraud investigation? 01:03:32PM

16 A. Zero. I heard that -- that's what alerted
17 me. They came to me that it had been zeroed out.
18 There wasn't a penny in it and I was shocked. I
19 could not believe that.

20 I said, "What?" I got to Jim Dawood, and he
21 said, "Oh, we've transferred that into my holding
22 companies to protect you from --" I said, "Protect me
23 from what?" He said, "To protect you." I said, "But
24 from what? What are you talking about? We haven't
25 done anything wrong here, have we?" And he said, 01:04:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 "Oh, no."

2 But he said I have to put these into holding
3 companies for a short period of time. He said
4 probably 30 to 60 days maximum. I said, "This is
5 news to me." I said, "I didn't agree to this."

01:04:31PM

6 **Q. Did you ever get any of that money back?**

7 A. Not a penny.

8 **Q. Okay. Did you ever get a call from**
9 **Chase Bank telling you that mortgage payments on the**
10 **Aquamarina property were late?**

01:04:46PM

11 A. Yes, I did.

12 **Q. Was it your understanding that Mr. Dawood**
13 **had just not been making those mortgage payments?**

14 A. Yeah. And I'd call him and I'd tell him not
15 only on that but, you know, on the taxes and other
16 entities that payments were due. So I would call and
17 be the intermediary to refer it to him to pay these
18 things. And he said he would. And subsequently, to
19 the best of my knowledge, they were paid, but they
20 were late and they incurred some late fees as well.

01:05:00PM

21 **Q. During this time were you getting paper**
22 **statements from Bank of America to your house?**

23 A. No. None.

24 **Q. Nothing came in the mail?**

25 A. Nothing came in the mail ever.

01:05:22PM

01:05:35PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did you ever -- after this fraud
2 investigation started, did you go to the bank?

3 A. I did go to the bank.

4 Q. Okay. And when you went there, did you
5 change the online login from the account? Do you
6 remember?

01:05:49PM

7 A. No.

8 Q. Okay.

9 A. Well, there was nothing there to change. It
10 had been siphoned off by, I assume, Mr. Dawood.

01:06:02PM

11 Q. Okay. We're going to take a short break,
12 Tom, and then come back.

13 MS. RABBANI: Can we go off the record.

14 THE VIDEOGRAPHER: We're off the record.

15 The time is 1:06 P.M., Pacific Time.

01:06:25PM

16 (Whereupon a recess was taken.)

17 THE VIDEOGRAPHER: We're back on the record.

18 The time is 1:21 P.M., Pacific Time.

19 BY MS. RABBANI:

20 Q. When you met Mr. Dawood, do you remember
21 anything else he told you about his credentials?

01:21:30PM

22 A. Well, he told me that he was a medical
23 doctor. And that his brother was a medical doctor.
24 Told me he was an attorney at one point and a
25 financial business consultant.

01:21:46PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Mr. Dawood told you that he himself was a
2 doctor, lawyer, and business consultant?

3 A. Yes.

4 Q. Okay. And he told you that his brother was
5 a doctor or lawyer? 01:21:57PM

6 A. Lawyer.

7 Q. Okay. Did you ever meet Mr. Dawood's
8 brother?

9 A. Yes.

10 Q. What was his name? Do you remember? 01:22:04PM

11 A. Nathan.

12 Q. And why did you meet Nathan?

13 A. Basically to go there to rewrite the will
14 and trust of my brother.

15 Q. And did you have Mr. Nathan Dawood rewrite
16 the will and trust? 01:22:24PM

17 A. Yes.

18 Q. Do you remember what he did?

19 A. He made a few changes and charged me
20 something like 8- or \$9,000 for it. 01:22:37PM

21 Q. Did you pay him for that?

22 A. It came out of the Jim Dawood fund and then
23 also I checked who Mr. Dawood for his contribution.
24 That was about \$7,500.

25 Q. Did you have Mr. Nathan Dawood work on your 01:23:03PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 own personal will and trust?

2 A. No.

3 Q. Just your brother's?

4 A. Correct.

5 Q. Okay. I'm going to ask you about a series
6 of transactions. It's going to be a little boring.

01:23:12PM

7 On September 9th of 2019, did you authorize
8 a wire transfer from that trust account to another
9 Bank of America account in the amount of \$731
10 thousand 989 -- sorry -- \$731,989.65?

01:23:39PM

11 A. No. No knowledge of that at all.

12 Q. On September 17, 2019, did you authorize a
13 wire transfer in the amount of \$654,063.80 out of the
14 trust account to a separate Bank of America account?

15 A. No. Never.

16 Q. Did you authorize on or about November 19,
17 2019, a \$10,000 online bank transfer from the trust
18 account to a separate Bank of America account?

19 A. No. Never.

20 Q. On or about November 26, 2019, did you
21 authorize a wire transfer in the amount of \$25,000
22 from the trust account to an account for the
23 Elliott Institute?

01:24:29PM

24 A. I'm wondering if that is the institute that
25 he agreed to have named -- renamed the Jack J.

01:24:53PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Battaglia fund. I don't know if that is a fact. I'm
2 assuming, and I shouldn't assume, but I assume it
3 might be. It might be. I don't know.

4 Q. So if -- you did potentially authorize some
5 money to be transferred for charitable fund in your
6 brother's name. Is that what you're saying? 01:25:16PM

7 A. Not specifically.

8 Q. So on or about November 26th, did you
9 authorize a \$25,000 wire transfer out of the trust
10 account for any purpose other than charitable? 01:25:36PM

11 A. No. Not -- no. No.

12 Q. Okay.

13 A. That's just a brief assumption of a vague
14 recollection that I can't substantiate, but I assume.
15 I'm making an assumption here. Make that very clear.
16 That's an assumption. It is not fact. It's just
17 kind of a thought that it could be. 01:25:54PM

18 Q. Okay.

19 A. I don't know for sure.

20 Q. But you didn't authorize a transfer for any
21 non-charitable purpose? 01:26:07PM

22 A. No, I didn't.

23 Q. Okay. On or about December 6, 2019, did you
24 authorize an online bank transfer of \$10,000 from the
25 trust account to a separate Bank of America account? 01:26:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. No.

2 Q. Okay. On or about December 23rd of 2019,
3 did you authorize an online bank transfer of \$3,000
4 from the trust account to an account belonging to
5 Christine Armani?

01:26:46PM

6 A. No.

7 Q. And on or about August 24th of 2019, did you
8 authorize anyone to access the trust account to
9 create a check -- a draft check to Medline
10 Management?

01:27:08PM

11 A. No.

12 Q. Okay. Okay. Those are all my questions for
13 right now, Mr. Battaglia. We have some time
14 remaining of our 90 minutes which we'll save to come
15 back after Mr. Sherman does his cross-examination.

01:27:22PM

16 A. Okay. Thank you.

17 MS. RABBANI: If we can go off the record
18 for a minute.

19 THE VIDEOGRAPHER: We're off the record.
20 The time is 1:27 P.M., Pacific Time.

01:27:54PM

21 (Whereupon a recess was taken.)

22 THE VIDEOGRAPHER: We are on the record.
23 The time is 1:44 P.M., Pacific Time.

24 ///

25 ///

01:44:27PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 EXAMINATION

2 BY MR. SHERMAN:

3 Q. Good afternoon, Mr. Battaglia.

4 A. Good afternoon, sir.

5 Q. My name is Victor Sherman, and I'm the
6 attorney for Mr. Dawood or "Dah-wood."

01:44:33PM

7 A. Yes, sir.

8 Q. I'm going to ask you some questions today.
9 You feeling okay?

01:44:43PM

10 A. I'm feeling fine.

11 Q. And this morning before we started, you told
12 the prosecutor that you're doing well, you're
13 recovering from your heart attack and your stroke,
14 you feel some loss of mobility. But otherwise you
15 feel in pretty good condition?

01:44:58PM

16 A. Yeah. They were minor.

17 Q. Minor. I'm glad to hear that.

18 A. They were minor occurrences.

19 Q. Do you know how much longer you are going to
20 be in the hospital?

01:45:08PM

21 A. I have no idea.

22 Q. Have they told you that you are going to be
23 at some point released from the hospital?

24 A. Yes.

25 Q. Did they give you any indication when?

01:45:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. No.

2 Q. Did they tell you why they were keeping you
3 in the hospital now rather than just releasing you?

4 A. Yes.

5 Q. Because?

01:45:24PM

6 A. Because of immobility. Not being able to
7 perambulate and walk like you do and everyone else.
8 I need to build up the musculature.

9 Q. So it really has nothing to do with your
10 heart?

01:45:44PM

11 A. No, I don't believe so.

12 Q. Or any other disease you might have?

13 A. I don't believe so.

14 Q. All to do with your mobility?

15 A. Right.

01:45:50PM

16 Q. So once you have either gained more strength
17 in your mobility or other arrangements are made or
18 somebody can assist you in your mobility, you expect
19 to be released?

20 A. I do.

01:46:02PM

21 Q. So you're not in hospice?

22 A. That's correct.

23 Q. And hospice would mean that there's some
24 type of thought that you might die within the next
25 six months to a year?

01:46:12PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I don't anticipate that.

2 Q. So you feel good?

3 A. Don't wish it.

4 Q. Of course not?

5 A. Of course not.

01:46:20PM

6 Q. So there's a trial in this case set for next
7 year, February or March. But in your present
8 condition you've -- other than your mobility -- you
9 feel that you are going to be capable of being a
10 witness?

01:46:32PM

11 A. I do.

12 Q. Would you give me a little bit about your
13 educational background?

14 A. Well, basically graduated in 1959,
15 John Muir High School, Pasadena, California; '61,
16 Pasadena City College with an AA degree -- with a BA
17 degree, excuse me, in business.

01:46:45PM

18 Q. You had a business degree?

19 A. Business degree.

20 Q. From what school?

01:47:04PM

21 A. PCC, Pasadena City College.

22 Q. So that's a two-year school?

23 A. That's a advanced school past high school.

24 Q. Then what?

25 A. Then went on to -- I was at the

01:47:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Jet Propulsion Laboratory and Caltech, and I was also
2 pursuing advanced education toward a master's degree
3 and eventually of a Ph.D. degree.

4 **Q. Did you ever get your master's or Ph.D.?**

5 A. I did not. 01:47:40PM

6 **Q. Did you study for a master's?**

7 A. Yes, I did.

8 **Q. Eventually you got a bachelor's degree
9 however?**

10 A. Yes. 01:47:47PM

11 **Q. From where?**

12 A. From California State University,
13 Los Angeles.

14 **Q. What year do you remember? Approximately.**

15 A. I want to say 1965 or '66, and the reason 01:48:00PM
16 for that was that I was working full time at the
17 Jet Propulsion Laboratory.

18 **Q. What were you doing at JPL?**

19 A. I was -- held several positions and mainly 01:48:28PM
20 in employment. I was one of their employment reps,
21 worked up to employment manager and supervisor.

22 **Q. What were your duties as an employment rep?**

23 A. Basically to hire from ground level to
24 highest academic levels, even CEOs of companies.

25 **Q. So that was a critical position at JPL?** 01:48:54PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I believe it was.

2 Q. How long did you work for JPL?

3 A. About 13 years.

4 Q. And during that period of time were you also
5 pursuing academic advancement?

01:49:07PM

6 A. Yes. At UCLA, and also I was working at
7 Caltech.

8 Q. What were you doing at Caltech?

9 A. Employment for them.

10 Q. Same type of job as JPL?

01:49:21PM

11 A. Yes. Employment.

12 Q. So you were working both jobs at the same
13 time?

14 A. Well, not really. They would phase me in,
15 phase me out, phase me back in. They requested my
16 assistance in hiring at whatever specific levels.

01:49:29PM

17 Q. And as your duties for hiring people at both
18 JPL and --

19 A. Caltech.

20 Q. -- Caltech. I mean, these are obviously
21 well-known, worldwide, recognized institutions;
22 correct?

23 A. Correct.

24 Q. And you're hiring people that had advanced
25 degrees?

01:49:50PM

01:50:01PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Yes.

2 Q. You had to go into their background, I
3 assume, in making determinations as to whether they
4 would be an acceptable --

5 A. Yes, I did. 01:50:06PM

6 Q. The reporter had told you before during the
7 break that you had to let me finish my question
8 before you answered.

9 A. Oh, okay. I'm sorry.

10 Q. It's all right. Everybody makes that
11 mistake. And the reason for that is it's very
12 difficult for him to put down two conversations at
13 the same time.

14 A. I understand.

15 Q. So let me finish my question. Then you'll
16 answer. I'll wait. Then I'll ask another question. 01:50:25PM

17 A. Perfect.

18 Q. So you had a period of time for both JPL and
19 Caltech, about a 13-year period?

20 A. More than that, actually. 01:50:41PM

21 Q. And again you were interviewing orally
22 people that were applying for jobs at both
23 institutions?

24 A. That's correct.

25 Q. Did you also review their resumes? 01:50:53PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Absolutely.

2 Q. So that required you to read documentation?

3 A. That's correct.

4 Q. And what kind of documentation would you
5 read?

01:51:02PM

6 A. Their resumes, their history of their
7 backgrounds, their -- their knowledge, their
8 educational backgrounds, social backgrounds.
9 Virtually everything.

10 Q. Would you also look at their transcripts
11 from school?

01:51:22PM

12 A. Absolutely.

13 Q. And based upon reading all of this
14 documentation, then you would ask questions?

15 A. That's correct.

01:51:31PM

16 Q. Would you prepare reports for your
17 supervisors?

18 A. Yes.

19 Q. Did you have more than one supervisor?

20 A. I had many depending upon the department
21 that I was hiring for.

01:51:38PM

22 Q. Would that require you to prepare a lot of
23 documentation as to your -- let me finish -- that
24 require you to prepare a lot of reports that would go
25 up the chain of command, so to speak, so that people

01:51:54PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **higher than you can make decisions about employment?**

2 A. Yeah. But when you say, "a lot of reports,"
3 it was pretty succinct, pretty direct, and minimal
4 documentation. Didn't require an awful lot.

5 **Q. Okay. But you would have to put together** 01:52:12PM
6 **your impression of the person?**

7 A. That's correct.

8 **Q. Based upon their oral interview and looking**
9 **at their records?**

10 A. That's correct.

11 **Q. And then you would try to condense -- let me**
12 **finish -- then you would likely condense your**
13 **impression into a report that would go to your**
14 **superiors?**

15 A. That's right. I was trying to prepare
16 groups of people who could work together socially,
17 physically, mentally, every other way. I built teams
18 of people. And chemistry, physics, mathematics,
19 English -- many different facets that required a team
20 to be formed and formulated.

21 **Q. Would you also work with other individuals**
22 **at both of these institutions to assist you in making**
23 **determinations about employees?**

24 A. Yes.

25 **Q. So you were a team player?**

01:52:22PM

01:52:33PM

01:53:07PM

01:53:17PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I was a team player.

2 Q. And when did your employment stop with both
3 of these institutions approximately?

4 A. Difficult to put a year on it.

5 Q. I don't need anything specific. Just give
6 me a general idea. 01:53:40PM

7 A. I don't have -- I don't have a date for you.

8 Q. All right. When's the last time you had
9 employment?

10 A. Myself? 01:53:59PM

11 Q. Yes.

12 A. Basically I was employed at IT,
13 International Technology Corporation in Pasadena. We
14 did environmental cleanups: Air, oil, soil, water,
15 asbestos, and nuclear cleanups. Large cleanups
16 around the world. You know, like the Port of Valdez,
17 the -- just the largest ones. You've heard of
18 Fluor Corporation. You've heard of Bechtel. Well,
19 IT Corporation was the third largest environmental
20 management company in the world. In the world. 01:54:22PM

21 Q. How long did you work for that company?

22 A. For IT?

23 Q. Yes.

24 A. I want to say about 12, 13 years.

25 Q. Okay. Do you know when you retired? 01:54:48PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. 1961.

2 Q. No. Retired from working?

3 A. I was 61 years old.

4 Q. So you're 61 years old?

5 A. I'm sorry. 61 years old. 01:55:19PM

6 Q. So you retired about 20 years ago?

7 A. Exactly.

8 Q. And in the last 20 years, have you done any
9 outside consulting or work for any company?

10 A. Mainly telephone interviewing and hiring for
11 the Navy of the United States and several other
12 entities as well. 01:55:30PM

13 Q. I take it, during your many years of
14 employment, you had to read contracts?

15 A. Absolutely. 01:55:46PM

16 Q. And in reading the contracts, presumably
17 your expertise allowed you to understand what the
18 contract said?

19 A. I would hope so.

20 Q. So would you consider yourself an expert in
21 reading contracts? 01:55:56PM

22 A. Well, I was promoted to director level --
23 whatever you wish to put on that as to the level of
24 expertise -- and I was nominated a couple of times
25 for vice president as well. 01:56:15PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q. What companies were you nominated for vice
2 president?**

3 A. IT Corporation. My own firm that I
4 established.

5 **Q. Which was what?**

01:56:26PM

6 A. Thomas Michael, TMB --

7 **Q. I'm sorry?**

8 A. -- TMB Associates. That was my company.

9 **Q. And what was that company established for?**

01:56:38PM

10 A. Largely management firms around the country.

11 **Q. So would you consider yourself pretty
12 sophisticated in the business world?**

13 A. I don't know what "pretty sophisticated"
14 interprets to, but certainly a lot of years devoted
15 to it. And to some pretty prominent companies. I
16 also worked for TRW. Thompson Ramo Wooldridge.
17 You've heard of them as well.

01:57:00PM

18 **Q. Yes.**

19 A. In Redondo Beach.

01:57:15PM

20 **Q. What'd you do for them?**

21 A. Employment. I was taken from one firm to
22 another. Continually promoted to a higher level in
23 all of these entities.

24 **Q. What's the highest title you ever obtained
25 for any of these companies?**

01:57:33PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Director.

2 Q. And what company was that?

3 A. That would be IT Corporation.

4 Q. And in your employment over the years, I'm
5 assuming that you worked for probably 40 years? 01:57:44PM

6 A. I want to say more than that.

7 Q. More than 40 years?

8 A. About 45.

9 Q. Based upon your background, which seems
10 substantial, you must have dealt with some very other
11 sophisticated individuals, lawyers, accountants? 01:57:57PM

12 A. Yes.

13 Q. You would deal with lawyers on a regular
14 basis?

15 A. I hired some lawyers. 01:58:07PM

16 Q. And how would you go about hiring lawyers?

17 A. Attorneys. How would I go about it?

18 Q. What did you do to investigate their
19 backgrounds?

20 A. Well, that's just exactly what you do. You
21 investigate their backgrounds and you recruit them
22 from these other companies that are most desirable to
23 your needs at your company, and I was pretty well
24 known doing that. 01:58:17PM

25 Q. So you feel comfortable in dealing with 01:58:41PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **lawyers?**

2 A. I do.

3 Q. And in your own life, have you employed
4 lawyers here and there?

5 A. No.

01:58:50PM

6 Q. **Never?**

7 A. I can't say never, but I don't recall any.

8 Q. Well, for instance, in preparing a will or
9 trust documents?

10 A. Vaguely. I don't have a lot of knowledge
11 there.

01:59:01PM

12 Q. We're going to get to that later on in the
13 deposition, but in essence you feel comfortable
14 around well-educated people?

15 A. I do.

01:59:17PM

16 Q. Now, you've indicated that your brother was
17 very intelligent?

18 A. Extremely.

19 Q. And spoke many languages?

20 A. Yes, he did.

01:59:25PM

21 Q. And both of you were very close?

22 A. Yes, we were.

23 Q. Were you the only siblings?

24 A. Yes.

25 Q. Before your brother died in 2019, were your

01:59:31PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **parents still alive?**

2 A. No.

3 Q. **When did your parents die approximately?**

4 A. Well, my mother preceded my father, and
5 he -- he died ten years later than my mother. I'm
6 trying to recall those dates. You may ask me -- I
7 don't know. I don't recall them.

01:59:51PM

8 Q. **But it was some years before your brother
9 died?**

10 A. Yes. Oh yes.

02:00:05PM

11 Q. **So after your brother -- after your parents
12 died, you and your brother stayed very close?**

13 A. Yes.

14 Q. **Did you live in the same area?**

15 A. Yes. We were very close. About a mile and
16 a half apart.

02:00:13PM

17 Q. **Would you see each other on a daily basis?**

18 A. Almost.

19 Q. **And talk frequently?**

20 A. Frequently. Probably every day.

02:00:23PM

21 Q. **And would he tell you what his life was
22 about and would you tell him what your life was
23 about?**

24 A. Absolutely.

25 Q. **And you really didn't have any secrets**

02:00:33PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **between the two of you?**

2 A. Not that I can recall.

3 Q. **So you knew what his life was like?**

4 A. Pretty much.

5 Q. **Was he married?**

02:00:43PM

6 A. No.

7 Q. **Did he ever marry?**

8 A. No.

9 Q. **Did you?**

10 A. Yes.

02:00:49PM

11 Q. **And is your wife still alive?**

12 A. I've lost track. I was married twice.

13 Q. Okay. And when -- let's say in the year of
14 2019, were you married at that time?

15 A. I believe so.

02:01:09PM

16 Q. **Did you live with your wife in 2019?**

17 A. No. I'm sorry. We were separated at that
18 time.

19 Q. **Did you ever divorce her?**

20 A. Yes.

02:01:20PM

21 Q. **Was that after or before your brother died?**

22 A. After.

23 Q. **Your brother was sick for a period of time
24 before he died?**

25 A. Yes.

02:01:34PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Do you know what he was sick with? What his
2 problem was?

3 A. Heart problems.

4 Q. Was he in the hospital?

5 A. Yes.

02:01:40PM

6 Q. For some period of time?

7 A. Yes.

8 Q. Was his death expected or unexpected?

9 A. It was -- well, when you have three invasive
10 procedures from the groin up to your heart to repair
11 valves in your heart -- four valve chambers -- and
12 the fourth one got -- got you. The fourth one, he
13 did not make it. That was the TAVR. Okay? Did not
14 make that procedure.

02:01:57PM

15 Q. I take it his death was in the end expected
16 or unexpected when he actually died?

02:02:18PM

17 A. Unexpected.

18 Q. So you were hoping that he would recover?

19 A. Absolutely.

20 Q. So when he died, I assume it was a great
21 shock to you?

02:02:33PM

22 A. Extremely great.

23 Q. And it was unexpected because, number one,
24 you thought he was recovering, and two, you were
25 hoping he would recover and the two of you were very

02:02:46PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 close?

2 A. And the doctors reassured me that that
3 fourth procedure was going to be beneficial and that
4 he would survive it. But he did not.

5 Q. Did you and your brother ever go to the same
6 law firm to prepare trusts? 02:03:00PM

7 A. Yes.

8 Q. And you remember what year that was?

9 A. Oh, god. I want to say 1989.

10 Q. Do you recall both of you going to a lawyer
11 in the year 2018? 02:03:15PM

12 A. I think that was Chamberlain and Viau,
13 husband and wife attorneys, in Los Angeles. I
14 believe it was them.

15 Q. All right. So you do have a recollection in
16 the year 2018 that both of you went and updated or
17 modified your trusts? 02:03:37PM

18 A. Yes.

19 Q. Originally you started a trust or created a
20 trust with some other law firm? 02:03:52PM

21 A. Yeah.

22 Q. And what year was that approximately?

23 A. That would have been ten years prior --
24 prior to Chamberlain and Viau.

25 Q. And at the earlier trust, did you and your 02:04:04PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 brother go to the same lawyers to create the trust?

2 A. Yes.

3 Q. So you created the trusts more or less at
4 the same time?

5 A. Yes.

02:04:14PM

6 Q. And then at 2018 you wanted to update your
7 trust, you and your brother, so the two of you
8 decided to go to the same lawyers?

9 A. Yeah.

10 Q. And that's, in fact, what you did?

02:04:22PM

11 A. I believe so.

12 Q. And I believe I'm going to show you
13 documents later, but it appears that you and your
14 brother both executed, updated, or modified trust
15 agreement within 60 days of each other. Do you
16 remember that?

02:04:35PM

17 A. If you say so.

18 Q. Well, I'm going to show you documents and
19 you can verify that, but that's what I'm saying.

02:04:46PM

20 A. All right.

21 Q. And you both went to the same law firm?

02:04:46PM

22 A. Yeah.

23 Q. And both of you had your signeurs (phonetic)
24 notarized by the same notary. Do you remember that?

02:04:55PM

25 A. I don't remember.

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. We're going to get to that in a
2 few moments.

3 Now, you say that you met Mr. Dawood within
4 a few days after your brother died or within a short
5 period of time, I believe you said? Maybe a couple
6 of weeks?

7 A. Right.

8 Q. Your brother died, I think, on July the
9 13th?

10 A. Of 2019.

11 Q. Correct. Do you remember meeting with
12 Mr. Dawood within a week of your brother's death?

13 A. I didn't think it was that close. I thought
14 it was more like two weeks.

15 Q. All right. Let's say two weeks. And the
16 purpose of meeting with Mr. Dawood was because he had
17 been referred to by a friend of a friend?

18 A. That's correct.

19 Q. And at that time you wanted to deal with
20 your brother's home?

21 A. Yeah.

22 Q. That was the purpose of the meeting, wasn't
23 it?

24 A. Right.

25 Q. And you met with Mr. Dawood and some other

02:05:10PM

02:05:18PM

02:05:31PM

02:05:42PM

02:05:48PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 individuals also at the site of your brother's home,
2 the Aquamarina property?

3 A. That's correct.

4 Q. And that was you and maybe at least three
5 other people? 02:06:01PM

6 A. Yes.

7 Q. And the purpose of that meeting was to
8 determine the worth of the property?

9 A. Not the purpose but -- well, one of the --
10 one of the purposes, but it was mainly to prepare it
11 for sale. That's my recollection. 02:06:12PM

12 Q. Okay. And the property needed a lot of
13 work, didn't it?

14 A. No, it didn't.

15 Q. Okay. So you thought it was in fair
16 condition? 02:06:25PM

17 A. Much better than fair.

18 Q. At that time did you have an idea as to the
19 approximate worth of the property?

20 A. I knew that properties within the block --
21 that same block that he lived in -- sold for in
22 excess of a million dollars. 02:06:36PM

23 Q. Okay so you thought your property was worth
24 somewhere in that neighborhood?

25 A. I thought his property was worth that. 02:06:49PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. Did you have any actual physical
2 appraisal shown to you by anybody?

3 A. Not at that point.

4 Q. All right. So when you met with Mr. Dawood,
5 I believe your testimony was that he would do what
6 was necessary to assist you in preparing the property
7 for resale? 02:07:06PM

8 A. That's correct.

9 Q. And included in that was that he would
10 invest money to update the property or do whatever
11 was necessary to make it as -- 02:07:24PM

12 A. Salable.

13 Q. -- salable as property; correct?

14 A. That's correct.

15 Q. And during that -- was that at the initial
16 conversation? 02:07:35PM

17 A. One of them.

18 Q. But you had no agreement as to any fee that
19 he would charge for doing that?

20 A. Well, I assumed he was going to charge me.
21 He said, "We'll take care of that later," he said. 02:07:50PM

22 Q. I believe you told the prosecutors that he
23 was going to pay some of the bills, invest money in
24 the property, pay the taxes, pay the mortgage. Was
25 that your understanding? 02:08:07PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That was my understanding.

2 Q. So here's a person that you had met very
3 briefly. He was a stranger; correct?

4 A. Right.

5 Q. And it was your understanding based upon
6 your initial conversations that he would put up his
7 own money to make the property more salable? 02:08:17PM

8 A. No.

9 Q. Okay. What did you understand?

10 A. I understood that some of the funds of my
11 brother's savings would be available to make the
12 repairs. And it only needed a paint job and some
13 flooring and about \$600 worth of roofing -- \$660
14 worth of roofing; I remember talking to that roofing
15 contractor. 02:08:29PM

16 Q. So you were going to provide the funds to
17 repair the property?

18 A. Through his funds and some of mine as well.

19 Q. I'm confused. When you talked to the
20 prosecutor this morning, you indicated that
21 Mr. Dawood was going to put up the money to repair
22 the property. You're now saying that's not accurate.
23 In fact, you were going to put up some of the money?

24 MR. SHERMAN: Objection. I think that
25 misstates the prior testimony. 02:09:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 BY MR. SHERMAN:

2 Q. All right. Well, just tell me your best
3 recollection.

4 A. Best recollection -- a partial amount that I
5 would provide. No -- no specific amount.

02:09:35PM

6 Q. So no specific amount was ever --

7 A. No. None.

8 Q. Did you understand that you would cost "X"
9 dollars, for instance, to repair the property?

10 A. I understood, but then, basically, when I
11 talked to Mac Cablan, the individual that I mentioned
12 repaired homes and rebuilt homes brand-new, he said,
13 "This is outlandish. These charges for these
14 entities to be -- to repair Jack's property are
15 crazy." He said, "I've maintained this property for
16 20 years." He said, "And there's no -- there's no
17 knowledge of his needing this expensive work that has
18 been claimed."

02:09:49PM

02:10:09PM

19 Q. All right. So Mr. "Day-wood" or "Dah-wood"
20 did provide you with a figure that he said would
21 require the house to go under some kind of renovation
22 for resale. He did give you a figure. Is that what
23 you're saying?

02:10:28PM

24 A. Well, that came in several different
25 iterations. Not all at once.

02:10:43PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Well, at some point did he tell you it's
2 going to cost "X" dollars to make this house salable?

3 A. Not really.

4 Q. Well, you just said there's a million dollar
5 figure. Where did that come from? 02:10:55PM

6 A. That was from my brother's money.

7 Q. Mike, you said that you talked to somebody
8 and you told him that, presumably, someone told
9 you -- and I assumed you meant Mr. Dawood -- that it
10 would cost a million dollars to make this property -- 02:11:09PM

11 A. That's what he said.

12 Q. Who is "he"?

13 A. Jim Dawood.

14 Q. All right. So now I'm asking when did
15 Mr. Dawood say it would cost a million dollars -- 02:11:20PM

16 A. I don't know when.

17 Q. Well, did it occur in one of the first
18 meetings? 02:11:27PM

19 A. No.

20 Q. Did it occur a month later?

21 A. No.

22 Q. Well, when did it occur?

23 A. It occurred at various entities along the
24 way. For instance, the refrigerator was alleged to
25 be bought for \$6,400 and then -- 02:11:41PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Let's just stop there for a moment, if you
2 might.

3 So a new refrigerator was put into the
4 premises?

5 A. Right.

02:11:54PM

6 Q. And that you were told it was \$6,400?

7 A. That's correct.

8 Q. Where did that money come from?

9 A. I have no idea.

10 Q. Well, did you pay for it?

02:12:02PM

11 A. I assume I did.

12 Q. Well, did you write a check for it?

13 A. No.

14 Q. Did you expect Mr. Dawood would use his own
15 money to pay for the refrigerator?

02:12:13PM

16 A. No.

17 Q. So the money had to come from somewhere?

18 A. Right.

19 Q. Did you ask at the time that the
20 refrigerator was bought --

02:12:22PM

21 A. I did.

22 Q. And what did he tell you?

23 A. And he said, "Correction. It is not
24 \$6,400." He said there was a dent in it.

25 Q. There was what?

02:12:31PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. There was a dent in the refrigerator, and he
2 said, "We've got it for something like \$1,400."

3 Q. Okay. So some figure?

4 A. Yeah.

5 Q. Okay. Did you expect he was putting up his 02:12:42PM
6 own money?

7 A. No.

8 Q. So you knew that he was somehow getting the
9 money to pay for the refrigerator; correct? Were
10 there other appliances -- 02:12:56PM

11 You have to answer yes or no.

12 A. Yes.

13 Q. Okay. And were there other things that were
14 being bought for the premises?

15 A. Yeah. 02:13:05PM

16 Q. For instance, it needed new hardwood floors;
17 correct?

18 You have to answer yes or no.

19 A. Yes.

20 Q. And you had to put in new windows, did you
21 not? 02:13:14PM

22 A. I don't recall the windows.

23 Q. Well, do you know that walls were being
24 knocked down?

25 A. Well, not knocked down, but resurfaced. 02:13:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. Where did you think that money
2 was coming from?

3 A. I was unaware.

4 Q. Well, you knew it was coming from somewhere?

5 A. I didn't question it.

02:13:42PM

6 Q. My only question is --

7 A. I didn't question him.

8 Q. My only question is you knew the money was
9 coming from somewhere?

10 A. But I didn't question him as to where it was
11 coming from.

02:13:50PM

12 Q. You never asked?

13 THE WITNESS: Can I have some water.

14 MR. SHERMAN: I'm sorry.

02:13:58PM

15 THE WITNESS: Thank you.

02:13:58PM

16 MR. SHERMAN: You're welcome.

02:13:58PM

17 THE WITNESS: Thanks.

02:13:58PM

18 BY MR. SHERMAN:

02:13:58PM

19 Q. I'm going to come back to the Aquamarina
20 property in a few minutes, but I want to turn to the
21 Hawaii property.

02:14:18PM

22 A. Okay. Two Hawaii properties.

02:14:18PM

23 Q. Two Hawaii properties.

02:14:18PM

24 A. 906 and 1103.

02:14:18PM

25 Q. It is your testimony there was never any

02:14:32PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 written documentation regarding the Hawaii
2 properties; is that correct?

3 A. That's correct.

4 Q. So you never signed any documents?

5 A. No.

02:14:40PM

6 Q. Never saw any documents?

7 A. No.

8 Q. You never agreed to sell the property?

9 A. No. This was his recommendation.

10 Q. I understand that, but your testimony is you
11 never signed a single document that had anything to
12 do with the Hawaii property?

02:14:49PM

13 A. That's correct.

14 Q. Did you ever hire a lawyer in Hawaii to
15 assist you in selling the property?

02:15:01PM

16 A. No.

17 Q. Do you know if a lawyer in Hawaii ever went
18 to court to get permission to sell the Hawaii
19 property to some entity that -- some LLC?

20 A. Well, I talked to the lawyer who I knew, you
21 know, why that we bought properties from, and he told
22 me that he was putting the properties up for sale.

02:15:16PM

23 Q. Okay. So you did employ a lawyer in Hawaii?

24 A. I didn't employ him. He referred himself to
25 me.

02:15:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Whose lawyer was that?

2 A. I don't know.

3 (Whereupon there was a brief
4 cellphone interruption in the
5 proceedings.)

02:15:47PM

6 THE WITNESS: Hi. I'm in a meeting. I'll
7 have to call you back.

8 MR. SHERMAN: It might be helpful if you
9 turned off the phone.

10 THE WITNESS: Okay. I thought I already
11 had.

02:16:14PM

12 MR. SHERMAN: You need some help?

13 THE WITNESS: It's not responding.

14 MR. SHERMAN: Here.

15 You want to turn it off.

02:16:49PM

16 MS. SPENCER: Are you comfortable with that?
17 I'll just turn it on silent.

18 BY MR. SHERMAN:

19 Q. All right. So is your testimony that you
20 knew the property in Hawaii was being sold or not?

02:17:05PM

21 A. I was -- I was unaware of that.

22 Q. Do you know as you sit here today, based
23 upon your knowledge in 2019, that the Hawaii property
24 was sold or not sold?

25 A. I don't know. The story changed from this

02:17:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 side to that side, from my side to his side, back and
2 forth, back and forth, no paperwork, no knowledge of
3 any of this.

4 **Q. All right.**

5 A. None.

02:17:39PM

6 Q. Now, there is a lawyer that you -- that
7 somehow discussed with you selling the Hawaii
8 property; correct?

9 A. No. I dealt with my associate here,
10 Frank Martinez. And Mr. Dawood objected to that. He
11 said, "My wife can assist you. We have a legal firm
12 that we can assist you with."

02:17:53PM

13 Q. Isn't that for the sale of the Aquamarina
14 property that you're referring to right now?

15 A. I'm referring to the Hawaii properties.

02:18:11PM

16 Q. Okay. So the idea that the Hawaii property
17 was going to be sold was a discussion between you and
18 Mr. Dawood?

19 A. No. This was all done unbeknownst to me,
20 sub rosa. I was not told of these actions.

02:18:30PM

21 Q. Okay. You just said that Mr. Martinez
22 was -- said that "I can sell the property --"

23 A. Well, this is where it's confusing, because
24 Jimmy told me that it was this one day, that way the
25 next day.

02:18:48PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. I'm not asking you -- I'm sorry.

2 I'm not asking you about what Mr. Dawood
3 said. I'm asking about your conversation with
4 Mr. Martinez, your friend?

5 A. Right. 02:18:56PM

6 Q. Did your friend, Mr. Martinez, tell you that
7 he was capable of selling properties for you?

8 A. Yes.

9 Q. Which properties was he referring to?

10 A. My brother's house and the two properties in 02:19:05PM
11 Hawaii.

12 Q. All right. So Mr. Martinez said, "If you
13 want to sell the house in the Aquamarina property and
14 if you want to sell the two properties in Hawaii, I
15 can do it"? 02:19:21PM

16 A. Yes.

17 Q. So those properties were, in your mind, up
18 for sale?

19 A. Right.

20 Q. And you're saying that Mr. Dawood 02:19:26PM
21 specifically said, "I can sell the properties. Don't
22 use Mr. Martinez"?

23 A. Yes.

24 Q. Would you be surprised if there are
25 documents that you signed that say exactly the 02:19:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 opposite?

2 A. I would be surprised.

3 Q. And would you be surprised that there are
4 documents in writing signed by you that specifically
5 said that Mr. Dawood, through various LLCs, granted
6 you the permission to pick exactly the person that
7 you wanted to sell your properties? Would that be
8 something surprising to you?

9 A. Yes, it would.

10 Q. All right. So you're saying that
11 Mr. Martinez -- by the way, he is not a real estate
12 agent, is he?

13 A. He's a broker.

14 Q. He's a broker?

15 A. In Orange county.

16 Q. So how would he assist you in selling
17 property in Hawaii?

18 A. Well, he told me he could and he did.

19 Q. So he sold the properties in Hawaii for you?
20 Is that what you're saying?

21 You have to say yes or no.

22 A. Yes.

23 Q. And who did he sell the properties to?

24 A. Well, the home was sold to --

25 Q. I'm not asking about the house. I'm asking

02:19:54PM

02:20:07PM

02:20:19PM

02:20:32PM

02:20:43PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **the Hawaii property.**

2 A. Oh, the Hawaii property, I don't know. See,
3 I don't know.

4 **Q. Well, you -- you just said --**

5 A. There's a lot of confusion here as to who 02:20:54PM
6 sold what to whom, because one day it was this way,
7 then the next day it was that way. One day I owned
8 it. The next day his firm owned them.

9 **Q. Did Mr. Martinez sell the homes in Hawaii,** 02:21:11PM
10 **the condos, for you?**

11 A. He sold the home.

12 **Q. I asked you about the condos in Hawaii. Did**
13 **he sell them?**

14 A. You said the home and condos.

15 **Q. I apologize. Did he sell the condos for you** 02:21:20PM
16 **in Hawaii?**

17 A. I don't believe so.

18 **Q. Do you know who sold the condos in Hawaii on**
19 **your behalf, if they were sold?**

20 A. I don't recall.

21 **Q. The lawyer that may have assisted in the**
22 **sale of the properties in Hawaii, do you know the**
23 **name of that lawyer?**

24 A. He's a real estate broker.

25 MS. RABBANI: What's the name? Let me see

02:21:45PM

02:22:07PM

02:21:45PM

02:22:07PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the document that shows the name of the lawyer that
2 went to court.

3 (Whereupon an unidentified
4 individual entered the room.)

5 THE VIDEOGRAPHER: Can we go off the record. 02:22:21PM

6 UNIDENTIFIED SPEAKER: -- one of you guys
7 wants to shut it off, you just push a button right on
8 that right-side panel, unless I can get over there.

9 THE WITNESS: You'll have to come over.

10 UNIDENTIFIED SPEAKER: I have to get there, 02:22:46PM
11 unless you want to push the "off" button for me.

12 THE VIDEOGRAPHER: We're off the record.

13 The time is 2:22 P.M., Pacific Time.

14 (Whereupon a recess was taken.)

15 THE VIDEOGRAPHER: We're back on the record. 02:32:46PM

16 The time is 2:32 P.M., Pacific Time.

17 BY MR. SHERMAN:

18 Q. Okay. Mr. Battaglia, other than the two
19 condos that were left to you by your brother, have
20 you ever been involved in sales of property in Hawaii
21 in the past? 02:33:01PM

22 A. Yes.

23 Q. How many times approximately?

24 A. About three times.

25 Q. You are aware that to sell property in 02:33:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Hawaii, it is necessary that the seller get
2 permission from the Court to sell the property;
3 correct?

4 A. No.

5 Q. You're not aware of that? 02:33:23PM

6 A. No.

7 Q. And when you sold property in Hawaii in the
8 past, did you have to use a lawyer to assist you?

9 A. It's easier if you do.

10 Q. And do you know what the lawyer does that
11 makes it easier for you to sell the property? 02:33:36PM

12 A. Well, I think they list it. And they
13 inquire a buyer and negotiate the sale.

14 Q. The lawyer?

15 A. Yeah. 02:33:52PM

16 Q. Doesn't the lawyer also have to go to court?

17 A. I would assume he would.

18 Q. Why do you assume that?

19 A. Because any transaction involving property
20 requires gaining or losing entity. 02:34:05PM

21 Q. Well, specifically in Hawaii, because of the
22 nature of that state, isn't it true to your knowledge
23 that a lawyer is needed to sell property in Hawaii?

24 A. I assume that's true.

25 Q. You do that? You know that? 02:34:27PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I do assume that's true.

2 Q. In this particular case, do you recall
3 signing documentation to employ a lawyer to assist
4 you in selling the property in Hawaii?

5 A. I don't require -- I don't recall any
6 attorney that I obtained.

02:34:38PM

7 Q. Did Mr. Martinez refer you to a lawyer in
8 Hawaii?

9 A. I don't believe so.

10 Q. Do you know the name of the lawyer by the
11 name of Mary Ellen Loncke L-O-N-C-K-E?

02:34:49PM

12 A. No.

13 Q. Never heard that name?

14 A. Never heard that name.

15 Q. Did you ever sign any paperwork authorizing
16 her to sell the property in Hawaii on your behalf?

02:35:01PM

17 A. No. Never.

18 Q. Did you ever sign any purchase agreement
19 with anybody to sell the property in Hawaii?

20 A. I can't recall.

02:35:18PM

21 Q. When you say you can't recall, this is in
22 the year 2019, just within ten days or so of your
23 brother dying. Don't you remember signing a
24 residential purchase agreement --

25 A. No, I do not.

02:35:34PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. -- let me finish.

2 Don't you recall signing documentation to
3 sell the two condos in Hawaii?

4 A. No, I do not.

5 Q. So your testimony is you never signed any
6 documentation?

02:35:43PM

7 A. To the best of my knowledge.

8 Q. How do you sign your initials?

9 A. T-M-B, Thomas Michael Battaglia.

10 Q. I'm going to show you a document that we're
11 going to mark as Exhibit 1.

02:36:08PM

12 MR. SHERMAN: Exhibit 1 is a -- what is
13 referred to as an apartment deed for sale of the
14 apartment at 906 Luana Waikiki executed on
15 September 17, 2019. That will be Exhibit 1.

02:37:29PM

16 (Defendant's Exhibit 1 was marked
17 for identification by the court
18 reporter.)

19 BY MR. SHERMAN:

20 Q. Do you recall -- let me show you this
21 document. First of all, I'm going to show you page 3
22 of the document. Do you see that signature?

02:37:41PM

23 A. Yeah.

24 Q. Is that your signature?

25 A. I think so.

02:38:02PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Whereupon the reporter interrupts
the proceeding.)

THE REPORTER: Can you repeat the last statement you made.

BY MR. SHERMAN:

Q. I'm going to approach the witness and ask him if that is his signature. Just answer yes or no and then we'll go to the next question.

A. It's possible, maybe. I'm not sure.

Q. Okay. The next page, page 4, is signed by a notary, also on September 17, 2019. You see that?

02:39:27PM

A. Yes.

Q. And do you see where the notary says that on that day -- and the notary is Mr. Conklin -- a notary public in and for said county and state personally appeared Thomas Michael Battaglia, successor trustee of the Jack L. Battaglia Declaration of Trust dated October 29th, 2002 -- by the way, that is the date of the original trust of your brother; correct?

02:39:49PM

A. What date?

02:40:06 PM

o. October 29, 2002.

A. I don't know that to be true. Also the middle initial is incorrect. It is not "Jack L."

O. Jack J.?

A. Oh, "J." "J" is okay.

02:40:19 PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. All right. And it says -- the notary says,
2 under penalty of perjury, that you appeared before
3 him on September the 17, 2019, and signed this
4 document. Do you recall that?

5 A. No, I do not.

02:40:33PM

6 Q. So you're saying that a notary forged a
7 notary when he said that you personally appeared on
8 that day?

9 MS. RABBANI: Objection. That misstates his
10 testimony.

02:40:45PM

11 BY MR. SHERMAN:

12 Q. Well, what is your testimony about this?

13 A. I am not sure because I never went to Hawaii
14 to sell the properties.

15 Q. This is not Hawaii. This is in Orange
16 county.

02:40:53PM

17 A. Oh, Orange county.

18 Q. Yes.

19 A. That would be through Frank Martinez, if it
20 was correct.

02:41:01PM

21 Q. This is a document that says that you went
22 before a notary to -- in Orange county to sell the
23 property at 906 Luana Waka -- Waikiki. That is the
24 unit, isn't it?

25 A. You're confusing things. You're saying

02:41:15PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Waikiki, you're saying that house, now you're saying
2 Waikiki. Which is it?

3 Q. I'm talking about the condo in Hawaii.

4 A. Well, if it's the condo in Hawaii, I never
5 went to Hawaii to sell them.

02:41:29PM

6 Q. Okay. I'm not --

7 A. Physically.

8 Q. -- I'm not saying you went to Hawaii
9 physically. I'm saying that you went to a notary in
10 Orange county.

02:41:40PM

11 A. That's a convoluted document. That's not
12 correct. It is incorrect, my friend.

13 Q. Well, what is incorrect about this?

14 A. Because you keep going back from home in
15 Hawaii -- Honolulu -- home in --

02:41:55PM

16 Q. I'm not talking about the home in Hawaii.

17 A. -- you started out in Orange county. Then
18 you went to Hawaii. You've confused the issue. Now,
19 which is it? What are we talking about?

20 THE VIDEOGRAPHER: The camera.

02:42:09PM

21 MS. RABBANI: Could you step back, Victor.

22 BY MR. SHERMAN:

23 Q. We are talking about the property in Hawaii,
24 unit 906. That is one of the units; correct?

25 A. Okay.

02:42:18PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. And I'm talking about selling that property
2 in Hawaii in which you had to sign a deed, and rather
3 than physically going to Hawaii to sign the deed, you
4 signed the deed in California. Do you remember that?

5 A. No, I do not.

02:42:31PM

6 Q. So you're saying --

7 A. Hawaii would not permit that. I guarantee
8 you. Hawaii law is different than United States law.
9 They have a different twist on it. You can go to
10 Exhibit 21. It's going to be the same. That's not
11 true. That is not true.

02:42:49PM

12 MR. SHERMAN: I'm going to mark Exhibit 2,
13 which is a petition and order that was filed in the
14 land court of the state of Hawaii by an attorney by
15 the name of Maryanne Ellen Loncke L-O-N-C-K-E, which
16 is entitled "A Petition of Thomas Michael Battaglia,
17 Successor Trustee of the Jack J. Battaglia
18 Declaration of Trust," dated October 29, 2002, for an
19 amendment of land court certificate of title.

02:43:22PM

20 (Defendant's Exhibit 2 was marked
21 for identification by the court
22 reporter and is attached hereto.)

02:43:36PM

23 BY MR. SHERMAN:

24 Q. And the document says, "Comes now petition
25 of Thomas Michael Battaglia, successor to that

02:43:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

trustee --"

A. And I'm supposed to remember 20 years ago?

Q. Just a second. No. This is 2019.

"-- prays for an amendment of the Land Court
to sell the property in Hawaii?"

02:43:54PM

A. That's worse.

Q. Let me show you this document.

A. I don't know anyone in my area of intelligence who could remember something over 20 years.

02:44:22PM

Q. No. This is not 20 years ago. This is approximately three years ago -- four years ago.

A. But this is incorrect.

Q. What's incorrect?

A. About my signing it --

02:44:48PM

Q. Is that your

A. -- in Hawaii.
Q. No one is saying you went to Hawaii to sign.
You signed it in California.

A. That could be. Now that could be.

02:44:57PM

Q. So do you remember that now?

A. No, I don't.

Q. Is that your signature?

A. It may be. I'm not sure.

Q. It's notarized.

02:45:06PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Well, it may be.

2 Q. So that --

3 A. I'm not sure.

4 Q. All right. So you're not sure whether or
5 not you went to -- in front of a notary and signed
6 that document? Is that your testimony?

7 A. I'm not sure that that is a correct
8 document.

9 Q. Well --

10 A. Period. That's all I can say.

11 Q. Do you see where a judge in Hawaii, based
12 upon this petition, signed a document on September
13 the 30, 2019, giving the lawyer permission to sell
14 the property?

15 A. Where is the judge's signature? Bess Palma?

16 Q. Yes.

17 A. There's no signature here. There's a stamp.

18 Q. A stamp.

19 A. But you said signature.

20 Q. I believe --

21 A. Ask Bess if she can recognize her stamp.
22 You know, that's just a plain old property stamp.
23 You can mail it from one to the next --

24 Q. Okay.

25 A. -- and do it.

02:45:15PM

02:45:28PM

02:45:48PM

02:46:01PM

02:46:14PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. So you're saying -- it says on September
2 the 30, 2019, Judge Bess K. Palmer or -- excuse me --
3 the register for Hawaii -- judge for the -- of the
4 land court signed this document on September the 30,
5 2019, and there's a stamp. Do you see that?

02:46:32PM

6 A. I see what you're saying.

7 Q. Do you have any doubt that that's authentic?

8 A. I have no doubt because I have no knowledge
9 of it. How would I know that?

10 Q. Well, you employed a lawyer to go to court
11 for you.

02:46:46PM

12 A. No, I didn't. Mr. Dawood did. I did not.
13 He told me that he was taking these properties under
14 his LLCs. Goldman and those other two that you guys
15 mentioned. Those were under his wing. You know, he
16 went back and forth, back and forth, so I never knew
17 that that was the case.

02:47:04PM

18 Q. All right. Do you recall actually signing a
19 purchase agreement between you and Mr. Battaglia --
20 between you and Mr. Dawood giving him authority to
21 sell the property?

02:47:23PM

22 A. No, I don't recall that. Funny how these
23 things appear and disappear.

24 Q. Okay.

25 MR. SHERMAN: I'm going to mark as Exhibit 3

02:47:49PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 something called "Hawaii Residential Purchase
2 Agreement," dated July 23, 2019, between United
3 Properties, a whiling (phonetic) corporation with a
4 mailing address of Post Office Box 4192, city of
5 Glendale, California, who agrees to buy from the Jack
6 J. Battaglia trust a condominium in Hawaii, unit 906. 02:48:10PM

7 (Defendant's Exhibit 3 was marked
8 for identification by the court
9 reporter and is attached hereto.)

10 BY MR. SHERMAN:

11 Q. And I'm going to show you page 8 of that
12 document and ask you if that appears to be your
13 signature?

14 A. It is definitely not my signature.

15 Q. That's not your signature? 02:48:42PM

16 A. That I can tell it isn't. I don't sign my
17 signature all scrunched up like that. I simply
18 don't. That's a copy.

19 Q. Do you remember signing a document --

20 A. That's incorrect. That's not my signature. 02:48:59PM
21 Guaranteed.

22 Q. So you never signed -- you never entered in
23 an agreement with Mr. Dawood to sell the property in
24 Hawaii pursuant to this agreement. Is that your
25 testimony? 02:49:11PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's my testimony.

2 Q. And your testimony is that a notary in
3 Orange county, which notarized your signature to sell
4 that property, is also false?

5 MS. RABBANI: Objection. Misstates his
6 testimony.

02:49:23PM

7 BY MR. SHERMAN:

8 Q. Is that your testimony?

9 A. I don't know.

10 Q. And you're saying that the lawyer that I
11 mentioned who went to court in Hawaii on your behalf
12 as the trustee for the Jack J. Battaglia Trust, that
13 also wasn't with your permission? Is that what
14 you're saying?

02:49:28PM

15 A. That's what I'm saying.

02:49:43PM

16 Q. Do you recall getting paid money for selling
17 this property?

18 A. I do not.

19 Q. So there are escrow documents?

20 A. I assume that they were still under his --
21 Jim's -- ownership.

02:49:59PM

22 Q. So you're saying you never got any money for
23 selling this property to Mr. Dawood?

24 A. That's correct.

25 Q. That's correct?

02:50:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Absolutely hundred percent correct for both
2 properties, 906 and 1103.

3 Q. I have a disbursement summary regarding this
4 property in which money was sent to the
5 Jack J. Battaglia Declaration Trust on -- by a wire
6 in the sum of a \$179,872.18. Do you recall that? 02:50:31PM

7 A. No, I do not. And also that is a fraction
8 of its value. That would be a fraction of its value.

9 Q. Do you --

10 MR. SHERMAN: Let me have the other
11 agreement. 02:50:58PM

12 THE WITNESS: It's a fraction of over a
13 million and a half, isn't it?

14 BY MR. SHERMAN:

15 Q. I'm sorry? 02:51:12PM

16 A. I'm asking the question. That's a fraction
17 of over a million and a half dollars.

18 Q. We're not talking about Aquamarina. We're
19 talking about the condos.

20 A. I know what you are talking about. 02:51:18PM

21 Q. What was the square footage of the Hawaii
22 property?

23 A. 13 -- about 13-, 1400.

24 Q. Was it less than 500 square feet?

25 A. Oh, no. No. No. It's a condominium suite. 02:51:34PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Okay. My question is, did you ever receive
2 a \$179,000 into the trust account from the sale of
3 this property?

4 A. Never.

5 Q. So I'm showing you --

02:51:50PM

6 MR. SHERMAN: Let's mark it as Exhibit 4.

7 (Defendant's Exhibit 4 was marked
8 for identification by the court
9 reporter and is attached hereto.)

10 BY MR. SHERMAN:

02:51:51PM

11 Q. By the way, there was a loan on this
12 property?

13 A. May I see it.

14 Q. I will show it to you in a moment.

15 Do you remember that there was a mortgage on
16 this property?

02:52:06PM

17 A. What unit are you talking about?

18 Q. My question is, was there a mortgage on this
19 property?

02:52:12PM

20 A. What property?

21 Q. The Hawaii condo, which was --

22 A. Which one? 906 or 1103?

23 Q. Yes. 906.

24 A. 906, we paid off. That was already off the
25 books. He paid that off. Jack did. 1103 had some

02:52:27PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 small amount due.

2 Q. Okay. I'm going to show you a document
3 that's been marked Exhibit 4, and I'm going to show
4 you -- it's a disbursement summary from the sale of
5 that property. Do you see that?

02:52:46PM

6 A. Yeah. It says here \$179,672.18.

7 Q. And there was a wire sent to your account in
8 that amount of money for the sale of the property?

9 A. Where does it attach it to me?

10 Q. You see where it says, "Sent to the
11 Battaglia Trust"? The disbursement? I put it in --
12 marked it in yellow.

02:53:11PM

13 A. This is not my name on here. I can't find
14 my name on here. To what do you refer to? Where's
15 my name on there?

02:53:31PM

16 Q. "Jack J. Battaglia Declaration of Trust
17 closing proceeds \$179,672.18. Cash to seller."

18 A. I got it.

19 THE VIDEOGRAPHER: Your mic fell. You have
20 to --

02:53:49PM

21 THE WITNESS: Cash to seller. But it
22 doesn't have my name on it. There's no name here.
23 Show me where my name occurs. Do you see it?

24 BY MR. SHERMAN:

25 Q. The trust. That property was held in the

02:54:02PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **name of the trust, wasn't it?**

2 A. Yeah. But my name is not on that.

3 Q. I understand your name was not on it because
4 the property wasn't in your name. It was in the name
5 of the trust, wasn't it?

02:54:13PM

6 A. Who's the Law Offices of Derrick J. Tomilta,
7 L.I.? My name is not on here.

8 Q. Who owned the property? You or your trust?

9 A. I don't know. You keep asking me. It keeps
10 going back and forth from his entities --

02:54:37PM

11 Q. Forget about --

12 A. I don't know. You're asking -- I have no
13 knowledge of any of these transactions. I don't
14 know.

15 Q. Okay.

02:54:48PM

16 A. Because I did not participate in them.
17 Never. Never. You said my name is on in document.

18 Q. I didn't say your name is on the document.

19 A. Yes, you did. You certainly did. Do I have
20 witnesses? Did he say the name was on here? I've
21 been scrutinizing, trying to find it. It's not
22 there. My brother's name is on there.

02:55:04PM

23 Jack J. Battaglia --

24 Q. Who owned --

25 A. -- declaration of closing proposals. Cash

02:55:17PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 to seller. 179. That would be a huge huge
2 ridiculous amount of money.

3 **Q. Do you recall receiving that money?**

4 A. No, I do not.

5 **Q. Okay. The property in Hawaii, that** 02:55:37PM
6 **particular condo, was in whose name in July of 2019?**

7 A. To my knowledge it should have been in my
8 name. My name.

9 **Q. In 2019?**

10 A. No. I'm sorry. In 2019, would be in my 02:55:54PM
11 brother's name.

12 **Q. Okay. And at some point did the property in**
13 **Hawaii transfer from your brother to your name?**

14 A. How do I know? That he died.

15 **Q. You said that the property was in your name** 02:56:07PM
16 **at some point: Yes or no? The Hawaii property?**

17 A. I assume that --

18 **Q. You assume what?**

19 A. -- that it was.

20 **Q. It was what?**

21 A. In my name.

22 **Q. Okay. Why do you assume --**

23 A. It would have because basically my brother
24 agreed to virtually give everything to me on my
25 properties.

02:56:23PM

02:56:36PM

02:56:37PM

02:56:38PM

02:56:39PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Mr. Battaglia, you know that's not true.

2 A. What do you mean?

3 Q. You know your brother in 2018 modified his
4 trust so as not to even give you title to his home,
5 Aquamarina property. Don't you know that?

02:56:49PM

6 A. That was a joke.

7 Q. A joke by whom?

8 A. Some phony-baloney attorney.

9 Q. It was the same attorney that you went to to
10 do your trust.

02:57:05PM

11 A. Well, you have all the data.

12 Q. I'm asking your recollection.

13 A. I don't have any recollection to it.

14 Q. So you don't know that your brother modified
15 the trust in 2018 in which he removed you as the
16 beneficiary of his home in Calle Aquamarina?

02:57:18PM

17 A. I'm very vague on this.

18 Q. Well, that would have been in the same
19 two-week period of your entering into this agreement
20 regarding the sale of the Hawaii property.

02:57:42PM

21 A. Oh, everything was dumped automatically;
22 right? Is that what you're saying?

23 Q. That's not what I'm saying. What I'm saying
24 is that in 2018 your brother changed his trust so you
25 no longer were the beneficiary of the --

02:57:57PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Let's call him back and ask him that
2 question. I do not know.

3 Q. Well, you have testified on other occasions
4 that you were aware that your brother modified his
5 trust removing you as the beneficiary of the sale of
6 his --

02:58:10PM

7 A. No, I never said that.

8 Q. You never said that?

9 A. I never said that. You just said that. I
10 never heard that before.

02:58:19PM

11 Q. So this is the first time you've heard that
12 your brother removed you as the beneficiary of the
13 sale of the Aquamarina property?

14 A. Yes.

15 Q. You testified within the last two weeks in
16 the civil deposition that in fact you did know that.

02:58:29PM

17 A. Well, I misstated then.

18 Q. So now, at this moment, today, is the first
19 time you've ever heard that your brother modified his
20 trust in 2018 removing you as the beneficiary of the
21 Aquamarina property? Is that your testimony?

02:58:47PM

22 A. I learned of that after he passed.

23 Q. Well, so you did know that?

24 A. Well, I read it, obviously, in the
25 documentation after he passed.

02:59:04PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. When did you learn that?

2 A. Subsequent to two thousand -- 2019.

3 Q. Well, didn't you know that in 2018 when the
4 two of you went to the same lawyer?

5 A. No, I did not.

02:59:32PM

6 Q. So your brother kept that a secret from you?

7 A. That would be the first secret he's ever
8 kept from me.

9 Q. Do you want us to believe that he kept that
10 a secret?

02:59:42PM

11 A. I want you to believe whatever is true, and
12 can you prove that?

13 Is it warm in here?

14 MS. SPENCER: Are you feeling warm?

15 MS. RABBANI: Do you want to take a break
16 and maybe the nurses can -- I think they can adjust
17 the temp.

03:00:43PM

18 MR. SHERMAN: I'm going to mark as
19 Exhibit 5 --

03:00:54PM

20 MS. SPENCER: Let's take a break.

21 MR. SHERMAN: Do you want to take a break?

22 THE WITNESS: Sure.

23 THE VIDEOGRAPHER: We're off the record.

24 The time is 3:00 o'clock Pacific Time.

03:11:52PM

25 (Whereupon a recess was taken.)

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 THE VIDEOGRAPHER: We're back on the record.

2 The time is 3:11 P.M., Pacific Time.

3 MR. SHERMAN: We're ready?

4 BY MR. SHERMAN:

5 Q. We were talking about the Jack J. Battaglia
6 Declaration of Trust dated originally October 29,
7 2002, and it was amended on August 13, 2018. And the
8 law firm you mentioned before, that you also used to
9 do your trust, was the same law firm that your
10 brother used. Do you remember that testimony?

03:12:21PM

03:12:43PM

11 A. I don't remember the testimony, but that
12 sounds correct --

13 Q. All right.

14 A. -- as far as the dates.

15 Q. Okay. Now, originally, your brother, in the
16 2002 trust, left you the Aquamarina property;
17 correct?

03:12:52PM

18 A. That's right.

19 Q. Okay. And I'm going to have marked as
20 Exhibit 6 the declaration of your -- the trust of
21 your brother that was prepared by the law firm
22 Chamberlain and Viau.

03:13:05PM

23 A. Chamberlain and Viau.

24 Q. And Viau.

25 A. Her name is Viau.

03:13:15PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. V-I-A-U.

2 A. Chamberlain and Viau.

3 (Defendant's Exhibit 6 was marked
4 for identification by the court
5 reporter and is attached hereto.)

03:13:20PM

6 BY MR. SHERMAN:

7 Q. And you were aware, when your brother
8 executed this trust in 2002, that he left you the
9 house?

10 A. That's correct.

11 Q. And during that, did you -- were you also
12 aware that, as part of his trust, that he directed
13 you as the trustee to give certain moneys to other
14 beneficiaries upon his death?

15 A. Not certain moneys. One thing was his
16 piano. His Steinway concert grand piano.

17 Q. Don't you recall in that trust that he told
18 you to give upon his death \$50,000 to Nicholas
19 Stratis S-T-R-A-T-I-S?

20 A. Nicholas Stratis. I don't recall that.

21 Q. And Kyle Atherton, \$25,000?

22 A. I don't recall that.

23 Q. And Chris Ruiz, \$25,000?

24 A. Chris who?

25 Q. Ruiz R-U-I-Z.

03:13:27PM

03:13:42PM

03:14:04PM

03:14:16PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. I don't know that person.

2 Q. **And Richard, a friend, \$25,000?**

3 A. Well, he passed away.

4 Q. **And did you ever see your brother's 2002
5 trust?**

03:14:30PM

6 A. I don't think I did.

7 Q. **So in all the years between 2002 and 2019,
8 your brother never showed you?**

9 A. No.

10 Q. **Well, you were the trustee.**

03:14:41PM

11 A. But he agreed with me that, whoever
12 predecease the other, that we would have a hundred
13 percent of each other's properties given to each
14 other.

15 Q. **Well, you know he changed that in 2018?**

03:14:54PM

16 A. After he died. After subsequent to his
17 death, yes.

18 Q. **When did you learn that?**

19 A. Well, I don't know. A few weeks after he
20 passed away.

03:15:08PM

21 Q. **How did you learn that?**

22 A. Remember, I was in the hospital and
23 recuperating from a stent in my chest, and then he
24 subsequently -- are you listening?

25 Q. **Yeah, I'm listening.**

03:15:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. He subsequently passed away. It was a very
2 confusing period.

3 **Q. All right.**

4 A. Disorienting period.

5 **Q. But you did learn?**

03:15:31PM

6 A. Soulful period.

7 **Q. Even by your testimony you learned shortly**
8 **after his death that he had changed his trust**
9 **agreement?**

03:15:39PM

10 A. Shocking to me.

11 **Q. All right. Even though the both of you used**
12 **the same lawyers in 2018?**

13 A. That's right.

14 **Q. So the lawyers never mentioned it to you?**

03:15:48PM

15 A. No.

16 **Q. And your brother never mentioned it to you?**

17 A. No.

18 **Q. Did you read the trust agreement in which he**
19 **disinherited you from the Aquamarina property?**

03:16:01PM

20 A. No.

21 **Q. Well, how did you know that he did that?**

22 A. I did after he passed away and I read it.

23 **Q. So you read the trust?**

24 A. After he passed away.

03:16:11PM

25 **Q. Okay. And did you remember -- did you read**

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the entire agreement?

2 A. I'm sure I did.

3 Q. And do you remember what the agreement said?

4 A. Oh, yeah. Word for -- word by word.

5 Q. In general?

03:16:21PM

6 A. How can I remember that that far back?

7 Q. Well, we're talking about 2019.

8 A. That's all, huh?

9 Q. You read the trust agreement?

03:16:33PM

10 A. That's over four years.

11 Q. But read the agreement -- you read the
12 trust?

13 A. I assume I did.

14 Q. All right. And in it, do you recall who he
15 deeded the property to?

03:16:43PM

16 A. Me.

17 Q. I'm talking about in 2018 when he changed
18 the trust agreement. Who did he -- in place of
19 you -- deed or request that the property be
20 transferred to somebody else and not you?

03:16:59PM

21 A. I'm not clear on that.

22 Q. Well, who's Brandon L-A-N-N-A-N?

23 A. He was an old friend.

24 Q. And when you read the trust agreement,
25 didn't you read that, in fact, at the behest of your

03:17:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 brother, the residence at 2416 Calle Aquamarina,
2 San Clemente, California -- a friend of your
3 brother's -- that if he survived your brother by
4 30 days, he was to receive the property on
5 Aquamarina -- Calle Aquamarina -- free of the trust? 03:17:29PM

6 A. No. I don't recall that.

7 Q. You don't recall that?

8 A. I don't recall that.

9 Q. I'm going to show you that exhibit, which
10 has been marked Exhibit 5, and ask you to read right
11 there. 03:17:40PM

12 (Defendant's Exhibit 5 was marked
13 for identification by the court
14 reporter and is attached hereto.)

15 THE WITNESS: It says what you said. 03:18:00PM

16 BY MR. SHERMAN:

17 Q. Is this the first time that you're aware
18 that that's what the trust agreement said?

19 A. Yeah.

20 Q. Right this moment? 03:18:08PM

21 A. Yeah.

22 Q. That's page 4 of that trust agreement --
23 trust paper?

24 A. Yes. There are other names on here, too.

25 Q. I understand, and we're going to get to that 03:18:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 in a moment, but your testimony is, as we sit here
2 today September the 17, 2023, at 2:15 P.M., this is
3 the first time you realize that your brother had
4 disinherited you from receiving Aquamarina property?

5 A. Don't use that word, "disinherit." He would 03:18:47PM
6 never disinherit me. Never.

7 Q. All right.

8 A. What a horrible word.

9 Q. **What word would you --**

10 A. Disinherit is to throw a person down the 03:18:56PM
11 drain. Discount them. My brother would never do to
12 that.

13 Q. **What did your brother do in that agreement?**
14 **In that trust paper?**

15 A. This is all news to me. I don't recall. 03:19:09PM

16 Q. **So in 2019, after you -- you had a copy of**
17 **this trust agreement in 2019?**

18 A. No, I did not.

19 Q. **You just testified a moment ago -- don't**
20 **interrupt, please -- you testified just a moment ago**
21 **that you discovered this trust agreement within a few**
22 **weeks of your brother's death?**

23 A. Within a few weeks. Maybe it didn't fall on
24 this document that you're holding. It doesn't fall
25 on that date. 03:19:42PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Well, didn't you make a claim today and in
2 other times, that you believed that somehow
3 Brandon --

4 A. I'm confused with the dates. I'll be honest
5 with you. I'm totally confused with the dates.

03:19:54PM

6 Q. Forget about the dates. Didn't you --

7 A. What do you mean, "Forget about the dates?"
8 Either he's alive or he's dead. Either he told me or
9 he didn't. Either he wrote about it or he didn't.
10 And I don't recall any of that. Do you understand
11 me? I do not recall any of that changing of the will
12 back to some other entity there.

03:20:06PM

13 Q. Haven't you previously testified, and in a
14 statement also given to the prosecution, that you
15 believe --

03:20:23PM

16 A. Well, you tell me I have. You're putting
17 words in my mouth. I don't know.

18 Q. Let me ask my question. May I please.

19 Didn't you testify at different times and
20 also make a statement to the Government that you
21 believe that somehow Brandon Lannan use some type of
22 coercion to get your brother to change the trust?

03:20:38PM

23 A. I'm not knowledgeable of that.

24 Q. You have no knowledge of that?

25 A. No knowledge.

03:20:55PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **Q. And you have no knowledge ever making that**
2 **statement?**

3 A. I have no knowledge ever making that
4 statement.

5 **Q. And you have no knowledge of making that** 03:21:00PM
6 **statement within the last two weeks of your other**
7 **deposition?**

8 A. I have no knowledge of making that
9 statement.

10 **Q. Didn't you --**

03:21:06PM

11 A. For the last two weeks of my deposition.

12 **Q. Didn't you make the statement within the**
13 **last half hour that the trust of your brother, the**
14 **amendment in 2019, was some kind of a document?**

15 MS. RABBANI: Objection. Misstates his 03:21:21PM
16 testimony

17 THE WITNESS: That's incorrect.

18 BY MR. SHERMAN:

19 **Q. Well, what did you say?**

20 A. He would never make a phony document, and he 03:21:24PM
21 would never mislead. He would never take me off the
22 will at all in any way.

23 **Q. So you believe that this document is phoney?**

24 A. I don't know. I wish I could call him back
25 and ask him. "These are yours?"

03:21:40PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 What's the signature on that? Let me see
2 it.

3 **Q.** All right. I'm going to approach the
4 witness and show you page 23 and show you your
5 brother's signature which was notarized by a notary.

03:21:52PM

6 **A.** That could be his signature.

7 **Q.** You see it's notarized?

8 **A.** Yeah, it's notarized. I don't know. This
9 is confusing. Very confusing.

10 **Q.** Well, I understand that you consider this
11 confusing, but do you have any doubt that your
12 brother in 2019 --

03:22:22PM

13 **A.** I have lots of doubts from what you're
14 saying here.

15 **Q.** All right. Let me finish the question.

03:22:33PM

16 **A.** Yeah. Go ahead.

17 **Q.** Do you have any doubt that your brother
18 decided not to deed the Aquamarina property to you
19 but in fact decided to deed it to Mr. Lannan instead?

20 **A.** I'm unaware of that.

03:22:49PM

21 **Q.** Well, you just read the document?

22 **A.** I don't care what the document says. It's
23 either in my opinion or not.

24 **Q.** And your opinion is that your brother didn't
25 do that?

03:23:00PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. That's my opinion.

2 Q. Even though your brother's signature is
3 notarized?

4 A. Why he would do that when all of our lives
5 we promised everything to each other. That's what we
6 promised, truly everything, with exception to the
7 piano I told you about and a couple of other minor
8 things. Oh, the records to my cousin. My
9 mother's -- not record but -- paintings. My mother's
10 paintings, and several other nice paintings that he
11 had to my cousin Drew. And I'm trying to think of
12 another. There was another one that I recall it was.
13 It wasn't any of those people.

03:23:11PM

03:23:31PM

14 Q. Okay. So when you read the document some
15 time after your brother's death, what document did
16 you read?

03:23:53PM

17 A. Oh you're going -- you're going to hold me
18 to that?

19 Q. I'm sorry?

20 A. You're going to hold me to that?

03:23:59PM

21 Q. Well, that's what you said?

22 A. From 2019 now?

23 Q. Yes.

24 A. Four years? I can't recall.

25 Q. What can't you recall?

03:24:08PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. The validity of what you're saying.

2 Q. Well, you're the one that said that you read
3 your brother's amendment to the 2018 trust some time
4 within a few weeks of your brother's death. You're
5 the one that said that.

03:24:23PM

6 MS. RABBANI: Objection.

7 Go ahead.

8 BY MR. SHERMAN:

9 Q. Did you read the document or not?

10 A. I believe I did.

03:24:30PM

11 Q. And do you remember what it said?

12 A. Very honestly? No. I don't recall.

13 Q. So it's difficult for you to remember what
14 was going on in the year 2019?

15 MS. RABBANI: Objection.

03:24:47PM

16 THE WITNESS: '18.

17 BY MR. SHERMAN:

18 Q. No. 2019. After your brother's death. Was
19 that a confusing period for you?

20 A. Yeah. I'm in the hospital. I have a stent
21 put in my heart. And he's passing away. He's not
22 coming through the fourth surgery on his heart. Do
23 you think I'm concentrating on goddamn document? How
24 dare you. How dare you.

03:24:55PM

25 Q. And I take it --

03:25:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. You don't concentrate on crap like that.

2 Q. So the trust agreement that your brother
3 changed in 2018 (sic) in which he took you off as the
4 beneficiary of the Aquamarina property, it was too
5 confusing in 2019 for you to comprehend that? Is
6 that your testimony?

03:25:29PM

7 A. I'm assuming that you're giving me correct
8 dates. We don't know. There's only one person that
9 knows. That's him.

10 Q. How about the lawyers that prepared this
11 document? They would know.

03:25:41PM

12 A. Oh, they're going to show me the documents
13 as soon as he died. That doesn't happen that way.

14 THE WITNESS: Am I correct, attorneys?

15 BY MR. SHERMAN:

03:25:50PM

16 Q. You can't ask them questions?

17 A. No. They don't give you data about your
18 brother's dying. "This is what's going to happen."
19 "You better get prepared for it." Sometimes that
20 happens. Sometimes it doesn't. In this case, it
21 didn't.

03:26:01PM

22 Q. What didn't happen?

23 A. This knowledge that you're trying to give me
24 here.

25 Q. So in other words, you can't remember

03:26:11PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 whether your brother, in fact, did this or didn't?
2 In other words, removed you from obtaining the
3 Aquamarina property?

4 A. I'm quite as sure he did not.

5 Q. Just as you're as confident that you never 03:26:24PM
6 signed documents with Mr. Dawood to sell the
7 Aquamarina property; is that correct?

8 A. Who's "Dah-wood"?

9 Q. "Day-wood." However you want to call it.

10 A. Oh, "Day-wood." Okay. You mispronounced 03:26:37PM
11 his name. I don't know.

12 Q. And you also are confused about the Hawaii
13 property, aren't you?

14 A. Yeah. Specifically on every date that you 03:26:55PM
15 recommend it.

16 Q. Forget about the dates. I'm not talking
17 about the dates. As far as signing documentation
18 that you, in fact, sold the Hawaii property, employed
19 a lawyer to do it, and signed a purchase agreement,
20 and, in fact, received the proceeds from the sale, is
21 that all confusing to you now? 03:27:07PM

22 A. Yeah. I didn't receive any proceeds.

23 Q. Even though we have documentation showing
24 that the money was wired to your account?

25 A. I think it was wired to Mr. Dawood's 03:27:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 accounts. I assume it was wired to Mr. Dawood's
2 accounts because I was not in receipt of it.

3 Q. Before I get more -- excuse me.

4 Do you recall an interview you had with
5 FBI Agent Julie Sawyer in October 30th of 2020?

03:28:05PM

6 A. I don't know if that date is correct, but I
7 did meet with her.

8 Q. And do you remember telling Ms. Sawyer in
9 2020 that, quote:

10 "I discovered that after Jack passed, that
11 he apparently talked my brother to change his will
12 and trust -- I never was informed of this -- to take
13 Jack's house away. No way. Jack and I always have
14 promised everything we had owned to be given to each
15 other when God called us home. I was not informed of
16 his will and trust over ever. I believe no one was
17 aware of this."

03:28:20PM

03:28:37PM

18 Do you remember telling her that?

19 A. Not in total.

20 Q. Well, would you like to see the report?

03:28:50PM

21 MR. SHERMAN: May we have this marked as
22 next in order.

23 (Defendant's Exhibit 7 was marked
24 for identification by the court
25 reporter and is attached hereto.)

03:28:58PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 THE WITNESS: You can fool a person with
2 dates very easily. Dates are not always the facts.
3 You know? You're trying to squeeze facts from me
4 that I cannot recall. No one can recall years and
5 years ago. Many people can't tell you what they had
6 for breakfast. Isn't that true? You know, you're
7 holding me to dates and signatures --

03:29:23PM

8 BY MR. SHERMAN:

9 **Q.** This --

10 A. -- changes. Monumental changes?

03:29:35PM

11 **Q.** This statement says that you told
12 Julie Sawyer in 2020 -- October of 2020 -- that you
13 discovered, that after Jack passed away, that this
14 Mr. Lannan apparently talked Jack, your brother, to
15 change his will and trust, giving him the house?

03:29:59PM

16 A. Oh, no.

17 **Q.** You never told Julie Sawyer --

18 A. Oh, no. Never. That's a total misquote.

19 **Q.** So Julie Sawyer, in making your report that
20 says that -- you never -- you never told her that?

03:30:09PM

21 A. I don't believe so at all.

22 **Q.** Do you remember writing her an e-mail in
23 which you said this?

24 A. No.

25 **Q.** Okay. May I show you a document.

03:30:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Mr. Sherman hands the witness a document.)

BY MR. SHERMAN:

Q. Is that your e-mail?

A. I was never informed of this. You take Jack's house away? Exclamation point, no way. Jack and I always have promised everything we had owned to be given to each other when God called us home. I was not informed of his will and trust changeover -- trust changeover ever. I believe no one was aware of these.

03:31:29PM

Q. Is that your e-mail address at the top?

A. Yeah.

MS. RABBANI: Victor, you've got about five minutes left.

03:31:55PM

BY MR. SHERMAN:

03:32:09PM

Q. Now, do you recall sending this e-mail?

A. No, I don't.

Q. So this is approximately about three years ago?

A. Yeah.

03:32:18PM

Q. Okay. And so you don't recall this e-mail?

A. I don't recall.

Q. And you don't recall telling Agent Sawyer what is included within this e-mail?

A. No.

03:32:29PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. And your testimony is that in October of
2 2020, you had no idea that your brother had removed
3 you as the beneficiary of the Aquamarina --

4 A. That's correct.

5 Q. -- house; is that correct?

03:32:43PM

6 A. That's correct.

7 MR. SHERMAN: Where's the deposition?

8 Where's that page?

9 THE WITNESS: I wish I could recall these
10 dates, but I simply can't.

03:33:10PM

11 BY MR. SHERMAN:

12 Q. Do you know somebody named Brandon Lannan?

13 A. Yes.

14 Q. Isn't it a fact that within -- once you
15 found out that your brother had decided to give the
16 property to Mr. Landon (sic), that you had a
17 conversation with him about that fact?

03:33:41PM

18 A. No.

19 Q. Did you ever talk to Mr. Landon (sic) within
20 a week to ten days after your brother died?

03:33:54PM

21 A. No.

22 Q. Do you recall testifying on October the 5th,
23 2013 (sic), which is approximately two weeks ago,
24 that you did talk to Mr. Lannan within ten days after
25 you discovered that your brother had deeded or given

03:34:13PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 the property to Mr. Lannan? That you had a
2 conversation with him about it?

3 A. No.

4 Q. Do you remember even mentioning
5 Brandon Lannan's name at the deposition that you gave
6 on October the 5th? 03:34:24PM

7 A. No, I do not.

8 Q. That's only twelve days ago. You have no
9 recollection of that?

10 A. No. 03:34:34PM

11 Q. You were aware, were you not, that in your
12 brother's trust he decided to give a distribution of
13 his estate to various other individuals other than
14 Mr. Lannan and yourself?

15 A. I told you about the piano. I told you
16 about the paintings. I told you about some other
17 little miscellaneous stuff -- 03:34:58PM

18 Q. How about the fact --

19 A. -- that my other cousin --

20 Q. How about the fact that he decided in his
21 trust to give 10 percent of the trust estate to his
22 friend Allen Koziol K-O-Z-I-O-L? 03:35:11PM

23 A. I never knew that.

24 Q. Did you know that he decided to give
25 5 percent of his trust to his friend Kyle Atherton? 03:35:26PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. No.

2 Q. Did you know that in his trust he wanted to
3 give 5 percent to his cousin Drew Battaglia?

4 A. I knew that he wanted to give Drew the
5 paintings.

03:35:39PM

6 Q. How about 5 percent of the trust?

7 A. No. It was just the paintings of my
8 mother's and other people.

9 Q. So you never knew --

10 A. Drew liked these.

03:35:48PM

11 Q. All right. To make this simple, he also
12 decided to give 5 percent of the trust after
13 distribution to you -- your percentage -- 5 percent
14 to Nick Stratis, 5 percent to Bob Ryan, 2 percent to
15 Tina Lee, 2 percent to Dustin Weden W-E-D-E-N,
16 2 percent to Vivien Nelson, 2 percent to
17 Vince Crowder and Liz Crowder C-R-O-W-D-E-R, and
18 2 percent to Matt Dimeo. Did you know any of that?

03:36:07PM

19 A. No, I did not.

20 MS. RABBANI: Also times up. I'll give you
21 a couple minutes to wrap up, but that is 90.

03:36:27PM

22 BY MR. SHERMAN:

23 Q. Well, as the trustee, didn't you have an
24 obligation --

25 A. But you don't read those things every five

03:36:37PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 days. Nobody does.

2 Q. As the trustee, you had the obligation to
3 look at your brother's trust to see what he wanted to
4 be done upon his death?

5 A. Yeah.

03:36:49PM

6 Q. Didn't you take that seriously?

7 A. Sure.

8 Q. Well, what did you do to decide --

9 A. Well, you're talking about weeks. How many
10 weeks are you talking about? That I knew this and I
11 knew that and I knew the other thing.

03:36:56PM

12 Q. At some point didn't you want to look at
13 your brother's trust document to see what he wanted
14 to be done upon his death?

15 A. Not that specific.

03:37:15PM

16 Q. Well, didn't you want to go to --

17 A. Because I assumed all my life that
18 everything was coming here.

19 Q. But you knew that your brother in 2018 had
20 gone to the lawyers to amend the trust at the same
21 time that you did?

03:37:25PM

22 A. No. That was verbal. That was verbal. It
23 wasn't written.

24 Q. Well, you just you said earlier that you and
25 your brother went to the same lawyers to have new

03:37:36PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 **trust documents prepared?**

2 A. But there was no mention of any major
3 changes.

4 Q. Well, didn't you want to go to those trust
5 attorneys to see what your brother had done? 03:37:51PM

6 A. No. Why would I second guess him? He never
7 told me a lie ever.

8 Q. Why did you think he went in 2018 to modify
9 his trust agreement -- trust document?

10 A. I don't think that. You think that. You're 03:38:05PM
11 trying to put words in my mouth.

12 Q. You know that he went to the lawyers to
13 change his trust. You testified to that.

14 A. Not specifically.

15 Q. What do you mean, "not specifically"? 03:38:18PM

16 A. Well, I don't know what he did. If I knew,
17 I could tell you.

18 Q. Okay --

19 A. If he were here, he'd tell you.

20 Q. -- and not knowing what he did, you had a 03:38:28PM
21 fiduciary obligation to go to the lawyers and say,
22 "Hey, did my mother -- brother change the trust? Let
23 me see the trust documents.

24 A. No. I wouldn't do that.

25 Q. Why not? 03:38:39PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Because I wouldn't have any idea that he
2 changed anything.

3 **Q. You testified earlier that you knew in 2018**
4 **he did, in fact, go and change his trust?**

5 A. Well, that was misnomer then. I didn't
6 understand you correctly.

03:38:48PM

7 **Q. All right.**

8 MR. SHERMAN: We can stop at this point. I
9 have lots more questions. I haven't even -- I'm not
10 even half done.

03:38:59PM

11 MS. RABBANI: I understand.

12 BY MR. SHERMAN:

13 **Q. By the way, just for your information, I**
14 **have text messages between you, Mr. Dawood, in which**
15 **you acknowledge that the proceeds from the Hawaii**
16 **property were, in fact, to be sent to the B of A**
17 **account.**

03:39:10PM

18 A. Well, let me see them.

19 **Q. I'm happy to do that.**

20 MR. SHERMAN: Are we still on the record?

03:39:24PM

21 May we have this exhibit --

22 MS. RABBANI: Do you have a copy of that for
23 us?

24 MS. REGNIER: I do.

25 ///

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

(Defendant's Exhibit 8 was marked for identification by the court reporter and is attached hereto.)

BY MR. SHERMAN:

Q. There's an e-mail from you to Jim from Bobby. Who's Bobby?

03:39:45PM

A. I don't know.

Q. What is your e-mail address?

A. Currently?

Q. Well, was it TMBGRP@aol.com? Would you please look at this e-mail.

03:40:00PM

A. Yeah. The name is wrong. It's my initials.

Who's Jim Bobby? Who are Jim and Bobby?

Q. Who do you think they are?

A. No. I don't know.

03:40:53PM

Q. You don't know who Jimmy is?

A. Oh. Jim Dawood.

Q. Doesn't this refresh your memory that, in fact, you knew that the money was going to be sent to the B of A account regarding the sale of the Hawaii property? Isn't that what this e-mail is about?

03:41:05PM

A. I don't know what it's about.

Q. Well, you wrote it.

A. Yeah. I wrote it, and you're talking about -- you're talking about October the 15th.

03:41:22PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Right after the sale of the Hawaii property.

2 And you wrote Jim and said and told him --

3 A. Two days after my brother passed away.

4 Q. It's not two days after your brother passed
5 away.

03:41:41PM

6 A. Yeah. Wait a minute. It's Tuesday, October
7 the 15th.

8 Q. Your brother died July 13th.

9 A. About a month.

10 Q. You were -- you sent an e-mail to Jim saying
11 that the guy from Title Guaranty called you to
12 confirm the B of A wire instructions to send the
13 money from the sale of the Hawaii condo. That's what
14 that e-mail says.

03:41:52PM

15 MS. RABBANI: Is there a question? I
16 think --

03:42:12PM

17 BY MR. SHERMAN:

18 Q. Isn't that what the e-mail says?

19 A. It's kind of blurred. It doesn't read like
20 you stated.

03:42:24PM

21 Q. In other words, all of these events are very
22 blurry to you. Is that your testimony?

23 A. No. I'm not saying that.

24 Q. What are you saying?

25 A. I'm saying that some of the assumptions that

03:42:33PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 you're making are incorrect. That's what I'm saying.

2 **Q. Okay.**

3 A. How can I prove this date, that date, the
4 other date, a week from now? How can I do that? Can
5 you do that? If you can, you're a Houdini. You're
6 great. Congratulations. I can't do that.

03:42:47PM

7 **Q. You're having trouble remembering what**
8 **happened in 2018 and 2019, aren't you?**

9 A. Well, when you're in the hospital having a
10 surgery in your heart, you know, wouldn't you?

03:43:08PM

11 **Q. You're having trouble remembering what**
12 **happened in 2018 and 2019 for whatever reason?**

13 A. That's a generalized statement. I'm not
14 making that as a blanket statement.

15 **Q. But as far as what document you signed and**
16 **business relationships you had, it's all kind of**
17 **blurry, isn't it?**

03:43:23PM

18 A. Well, they can give you drugs and different
19 things when you're in the hospital. You don't know
20 what you're doing; isn't that right?

03:43:34PM

21 **Q. Thank you very much.**

22 A. You're welcome.

23 MS. RABBANI: Let's go off the record.

24 THE VIDEOGRAPHER: We're off the record the
25 time is 3:43 P.M., Pacific Time.

03:43:47PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 (Whereupon a recess was taken.)

2 THE VIDEOGRAPHER: We're back on the record.

3 The time is 3:51 P.M., Pacific Time.

4 FURTHER EXAMINATION

5 BY MS. RABBANI:

01:54:12PM

6 Q. Mr. Battaglia, do you have some trouble
7 remembering specific dates on which you might have
8 read specific documents a few years back?

9 A. I think everyone does.

10 Q. Do you have a clear recollection of your
11 relationship with Jimmy Dawood?

03:51:38PM

12 A. I believe I do.

13 Q. And are you certain, sitting here today,
14 that you never asked him or authorized him to invest
15 that trust money in any other project?

03:51:55PM

16 A. Yes. I am sure of that.

17 Q. You testified earlier that on at least one
18 occasion, Mr. Dawood had you sign some documents. Do
19 you remember that?

03:52:10PM

20 A. Yes.

21 Q. Were there occasions when he had you sign
22 documents and you didn't read them?

23 A. Yes, there were.

24 Q. Is it possible that he had you sign
25 documents relating to the sale of the Hawaii

03:52:23PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 properties?

2 A. It's possible.

3 Q. Do you remember whether he ever had a notary
4 there when you signed documents?

5 A. Well, he took me to several of them that he 03:52:36PM
6 seemed to know personally.

7 Q. So that happened -- did that happen more
8 than once?

9 A. Yes.

10 Q. Do you remember whether he ever had you sign 03:52:48PM
11 something like electronically, on an iPad or a
12 computer?

13 A. No.

14 Q. Okay. Did you understand that ownership of 03:53:03PM
15 the Hawaii properties was at some point transferred
16 away from you?

17 A. Well, that's confusing. Because he said he
18 was going to do -- put it into an entity for a period
19 of time to, quote, unquote, to protect me, and that
20 it would be released at a period of time again to 03:53:25PM
21 protect me. That was my understanding.

22 Q. So did you understand that ownership of the
23 Hawaii properties would come back to you after some
24 time?

25 A. Absolutely yes. 03:53:39PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 Q. Did you ever want to part with the Hawaii
2 properties permanently?

3 A. Well, the thought crossed my mind, you know,
4 but when you're dealing with the dynamics that I was
5 dealing with, it was pretty pretty difficult to make
6 ironclad statements that you totally would called.

03:53:57PM

7 Q. Did you ever agree to sell either Hawaii
8 property permanently? In other words, to permanently
9 part with your interest in it?

10 A. We talked about that.

03:54:18PM

11 Q. Did you ever agree to do it?

12 A. I don't recall.

13 Q. Would you ever have agreed to sell your
14 interest in either condominium suite permanently --

15 A. No.

03:54:33PM

16 Q. -- for 200 -- not at all?

17 A. No. Never.

18 Q. If you were going to sell it, would you have
19 agreed to sell it for \$200,000?

20 A. Absolutely not. Not when the first one,
21 906, was worth over well over a million. And the
22 other one, well over \$500,000. Well over these
23 amounts.

03:54:41PM

24 Q. And what was your understanding of those
25 values based on? Was it based on --

03:54:59PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 A. Prior sales.

2 Q. -- prior sales of similar units?

3 A. Yeah. In Hawaii. Yeah.

4 Q. Do you need a minute with the phone?

5 A. Yeah.

03:55:45PM

6 Can't make it work.

7 Q. Do you need help?

8 A. Yeah. I'm trying to turn it off.

9 Q. I have like two more questions --

10 A. Go ahead.

03:56:22PM

11 Q. -- and then we'll be done and take a break
12 and you can have it back.

13 Do you have any knowledge, one way or
14 another, whether your brother Jack ever knew
15 Jimmy Dawood?

03:56:35PM

16 A. I'm positive he did not.

17 Q. He did not.

18 A. No.

19 Q. And as far as you understand, Jimmy Dawood
20 was never intended to be a beneficiary of your
21 brother's trust?

03:56:41PM

22 A. Absolutely not intended or known to be.

23 MS. RABBANI: I don't have any more
24 questions.

25 THE WITNESS: At this time I don't really

03:56:59PM

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 have any more questions.

2 MS. RABBANI: Thank you --

3 THE WITNESS: I may have some, but I don't
4 recall anything urgent that I bring up at this point.

5 MS. RABBANI: Okay. And I'm done. 03:57:14PM

6 THE WITNESS: I hope that the statements
7 that I have made are as clear as possible, you know,
8 due to my recollection.

9 MS. RABBANI: We appreciate you sitting
10 here. I know this is not the easiest day to do it. 03:57:25PM

11 THE WITNESS: It's okay.

12 MS. RABBANI: But I'm done, so can we go
13 ahead and go off the record.

14 THE VIDEOGRAPHER: Here concludes Volume I
15 in video deposition of Thomas Michael Battaglia, and
16 we're off the record at 3:57 P.M., Pacific Time. 03:57:37PM

17 (Whereupon the deposition was

18 adjourned at 3:57 P.M.)

19

20

21

22

23

24

25

COURT REPORTERS/VIDEOGRAPHERS/INTERPRETERS

1 CERTIFIED SHORTHAND REPORTER'S CERTIFICATE

2
3 I, ANDREW T. HA, CSR #14537, hereby certify
4 that I am a Certified Shorthand Reporter in and for
5 the State of California.

6 I hereby certify that the witness in the
7 foregoing deposition, THOMAS BATTAGLIA, was by me
8 duly sworn to testify the truth, the whole truth and
9 nothing but the truth; that said deposition was taken
10 at the time and place therein set forth; and was
11 taken down by me in stenotype and transcribed into
12 typewriting by computer; and that the deposition is a
13 true record of the testimony given by the witness.

14 That before completion of the deposition,
15 review of the transcript [] was [x] was not
16 requested. If requested any changes made by the
17 deponent (and provided to the reporter) during the
18 period allowed are appended hereto.

19 I further certify that I am neither counsel
20 for, nor related in any way to any party to said
21 action, nor otherwise interested in the result of
22 outcome thereof.

23
24 Date: 10/27/2023

25 ANDREW T. HA, CSR NO. 14537
STATE OF CALIFORNIA

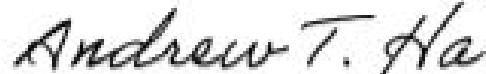


Exhibit B

[to be lodged]